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Environmental Management and Energy Facility Siting in the Coastal Zone

Seton, Johnson, and Odell, Inc, Portland, OR

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ENVIRONMENTAL MANAGEMENT AND ENERGY FACILITY SITING IN THE COASTAL ZONE

Integration of Environmental and Coastal Zone Management Processes Applied to Energy Facility Siting in West Coast States

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16. ABSTRACT

This report studied the issue of integrating air and water quality planning, coastal zone management, and energy facility siting activities in coastal areas of California, Oregon, and Washington. The study considered exploration, extraction, refining, storage, transfer, and shipment of oil and gas; thermal power plants; and construction and fabrication yards for oil drilling equipment to be used on the outer continental shelf. The objective of the study was to improve the efficiency of the permitting process. After identifying problems in the regulatory process, recommendations were developed to deal with these problems and included suggestions to consolidate the state and federal environmental review procedures, reduce duplication in permit applications, and clarify interagency relationships. The methodology of the study consisted of doing six case studies and holding five workshops in which comments of interested industry and public interest individuals were solicited.

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Environmental Management and Energy Facility Siting in the Coastal Zone

EXECUTIVE SUMMARY

INTRODUCTION

The purpose of this project was to study the issues of integrating air and water quality planning, coastal zone management and energy facility siting activities in the coastal areas of California, Oregon and Washington. Nuclear facilities were explicitly excluded from the analysis, which considered exploration, extraction, refining, storage, transfer and shipment of oil and gas; thermal power plants; and construction and fabrication yards for oil drilling equipment to be used on the outer continental shelf.

The consultants, Seton, Johnson & Odell, Inc. and Cogan & Associates, both of Portland, Oregon, performed the work under contract to the Office of Transportation and Land Use Policy, U.S. Environmental Protection Agency. The study team was directed to examine and evaluate policies and programs at all levels of government on the west coast and develop recommendations which would:

- Clarify institutional roles and interagency relationships;
- Simplify policy making, planning, regulatory and review processes;
- Reduce and consolidate duplicatory paper work and repetitive permit applications;
- Consolidate or coordinate time consuming phases of the permit process;
- Improve information flow to and among the private sector as well as among governmental agencies at the federal, state and local level;
- Respond to the concerns about coastal land use planning and energy development shared by developers, elected officials and agency personnel.

METHODOLOGY

The consultants developed six case studies, two for each state, which were representative of the complex issues involved. In each situation a private developer has proposed to build an energy facility in a coastal area which requires the approval of numerous local, state and federal regulatory agencies. The facilities studied are as follows:

- OCS Oil & Gas Development, Exxon Santa Ynez Unit, Santa Barbara, California
- SOHIO Petroleum Terminal, Long Beach, California
- Kaiser Steel Corporation Fabrication Yards for Offshore Oil Well Drilling Platforms: Ports of Everett & Grays Harbor, Washington
- A Proposal to Construct and Operate a Fabrication Yard to Assemble Offshore Oil Platforms at Warrenton, Oregon
- A proposal to Provide a Common Carrier Transportation System for Receiving Crude Oil by tanker at Port Angeles, Washington and Transporting it to Inland Markets
- Liquified Natural Gas Peaking Plant at Newport, Oregon

In addition to the case studies the consultants held five workshops in central locations of the three states to elicit informed comments on the subject from governmental officials and representatives of public interest groups and private industry. Individual and group remarks, suggestions and evaluations were a distinct and valuable addition to the data uncovered in the other investigations. In this report, the most critical problems of energy facility siting in the coastal zone are described in terms of their institutional, jurisdictional, environmental, economic and political ramifications. Solutions, in the form of actions which can be effectuated by various governmental units, are suggested and evaluated. In general, the study concludes that many improvements can be made to the energy facilities siting process on the west coast so that it meets more adequately the goals outlined. Structuring the process to safeguard the public interest while not penalizing the applicant unfairly is a principal which has been applied to all the recommendations in this study.

CRITICAL PROBLEMS

While many unique problems are associated with this issue they may be divided into the following major categories:

1. Inadequate Information Dissemination

All parties are affected adversely when accurate information is not readily available. Some of the problem lies in the imprecise nature of the energy-related data, leading to disagreement over projections and assumptions extrapolated from the information. In addition, the basic requirements of differing agencies as well as procedures for updating data are not uniform or clearly articulated.

Lack of an organized informational management system causes difficulties in arriving at timely and equitable decisions, resulting in duplication of efforts, controversy and undue expense.

2. Weak Planning and Policy Linkages

There is an absence of a comprehensive planning process for energy facilities in the coastal zones of all the states studied. Policy is made in response to private industry requests for permits to use a specific site rather than in consideration of total community and/or state or federal environmental, economic and social objectives. This ad-hoc approach gives regulatory agencies, with narrowly defined responsibilities too much independent control over siting decisions. In addition, frustrated public interest groups and citizens, faced with the uncertainties of a disorderly planning process, often feel they have no recourse but to oppose specific projects.

3. Fragmented and/or Overlapping Jurisdictions

In this era of rapid technological growth as well as evolving public policy, legislation often is oriented to solving a particular problem without reference to its effect on other related matters, i.e., wastewater management, air pollution, coastline protection, etc. Thus, administrative agencies often are faced with unclear or contradictory directions which cause jurisdictional conflicts and untimely delay. Each of the states, and the federal agencies, attempts to deal with this problem differently.

In California, CERCDC, the California Energy Resources Conservation and Development Commission, develops basic data on energy needs and has authority to approve siting and construction of major power plants and transmission lines. The CCC, California Coastal Commission, is charged with designating areas of the coast unsuitable for power facilities as well as pre-selecting sites for a liquified natural gas marine terminal. Approval for the planning, siting and construction of other energy facilities in California is more diffuse, divided among the Coastal Commission, other state and federal agencies, and local governmental bodies.

In Oregon, jurisdiction over energy facilities on the coast is fragmented even further. State agencies playing specific roles include the Department of Energy, Energy Facility Siting Council, Department of Land Conservation and Development, and the Department of Environmental Quality. Local and federal agencies also play an important role.

In the State of Washington, coastal planning is under the jurisdiction of DOE, the Department of Ecology and local communities, while permits for energy facilities are the ultimate responsibility of EFSEC, the Energy Facility Siting Evaluation Council. The latter agency may preempt all other state and local permitting authorities in the development of a site certification agreement with a private industry.

On the federal level, the major agencies involved in the siting of coastal energy facilities include EPA, the Environmental Protection Agency; DOE, Department of Energy; OCZM, Office of Coastal Zone Management; BLM, Bureau of Land Management; U.S. Geological Survey; Corps of Engineers; Coast Guard; and the Office of Pipeline Safety in the Department of Transportation.

4. Lack of Regulatory Coordination

An issue related to the problem of fragmented and/or overlapping jurisdictions is the tendency for the energy permitting process to be divided among various agencies with lack of a central coordinating or expediting authority. This problem is found at all levels of government and is manifested in the fact that legal authority given to individual agencies seldom can be delegated to others.

5. Changing Laws and Regulations

The energy facility siting process is in a state of disequilibrium faced with a constant array of new or modified laws, regulations, rules, standards and programs. Oftentimes the latest rules are not consistent with past determinations, causing considerable anxiety and difficulties to private industry and agencies in the midst of a specific siting situation. In addition, no comprehensive or integrated energy policy exists which would provide guidelines for the numerous separate and unrelated laws and regulations.

6. Inadequate Resources

Growing taxpayer resistance to increased taxation and governmental control is particularly pertinent to the issues of environmental quality and energy facilities siting because adequate regulation often requires that significant resources be allocated to the planning or regulating body. As cited previously, lack of sufficient information often causes disagreements which are costly and nonproductive for all parties. At the same time, measures of productivity and effectiveness regarding the project application review processes are not generally developed or available, making it difficult to allocate resources in proportion to reasonable need.

RECOMMENDATION

After extensive study of the problems, the following sets of measurements were used to evaluate the effectiveness of possible solutions. The first included the ability of an action to resolve the problems identified during the course of the project and discussed above:

- Inadequate information dissemination
- Weak planning and policy linkages
- Fragmented and/or overlapping jurisdictions
- Lack of regulatory coordination
- Changing laws and regulations
- Inadequate resources

Each possible action also was evaluated concerning how it satisfies the criteria listed in the Introduction section of this Executive Summary on page i. In addition, judgment was expressed about how each possibility would:

- Improve the integration of environmental management with the energy facility siting process;
- Be politically attainable.

Various matrices and tables were developed to portray the numerical scores assigned to each potential problem solving component. The following actions received the highest scores and are recommended as contributing the most to integrating environmental and coastal zone management processes related to energy facility siting in California, Oregon and Washington.

- Develop Accurate, Consistent and Complete Data Base

  This action received the highest score of all potential policymaking and planning actions. It can help strengthen the entire process and probably can be implemented with some ease, both politically and technically.

- Institute Site Suitability Planning

  Such a system, instituted in advance of requests for specific project approval, can strengthen planning as a tool in policy formation. It is somewhat controversial and considered by some as a usurpation by government of private development rights.

- Develop Early Warning Systems for Critical Issues

  This approach was favorably viewed by individuals interviewed or attending workshops during the course of this study. It involves the requirement that each state develop an appropriate pre-application process involving local, state and federal agencies to determine permit and information criteria, lead agency responsibilities and critical substantive issues. It will be an aid both to the private developer and the agencies in mitigating many of the problems inherent in the current system. The action may be somewhat difficult to implement because of the requirement for extensive agency coordination and cooperation.

- Disseminate Project Information and Permit Criteria

  This action would help alleviate the problem of obtaining accurate, thorough and current information about a proposed project. It requires the Governors of each state and key agency managers to improve methods for sharing information conerning a specific permit, including preparation and circulation of a fact book and information packet.

- Expedite Permit through a Facilitator

  It is recommended that the Governors and lead agencies in each state, as well as appropriate federal agencies, establish the position of permit expediter. Function of the job would be to manage, coordinate and facilitate permit evaluation and review of coastal energy development proposals. It is anticipated that considerable public discussion and some controversy may ensue over this suggestion because the idea of a government expediter for private development may not fit the generally accepted notion of government's role in this process. Nevertheless, it is considered an important step toward resolving the problems of fragmented and overlapping jurisdictions as well as lack of regulatory coordination.

- Conduct Concurrent Reviews

  Case studies reviewed and interviewees contacted for this report attest to the time consuming and costly nature of the sequential permit processes now being followed. A high priority was placed upon the need to foster simultaneous or parallel review systems for consideration of all permits. This will require common time schedules and considerable cooperation and flexibility among the various agencies involved.

- Integrate Environmental Impact Statements

  In areas where projects have similar impacts upon the levels of government, federal/state impact statements should be prepared. This is a timely and cost saving action which calls for sharing of authority and a high degree of coordination. It is in the best interest of the public as well as the private developer.

IMPLEMENTATION

The Office of Transportation and Land Use Policy and the Office of Planing and Management at the Environmental Protection Agency are responsible for implementing the recommendations in this report. Commitment to cooperate and participate by other affected federal and state agencies, as well as by private industry and public interest groups, is needed. Successful implementation will depend upon the level of coordination achieved among all parties.

It is suggested that EPA undertake several specific tasks to facilitate study implementation:

- Distribute report to interested parties;
- Hold workshops to discuss implementation strategies;
- Conduct a demonstration project to test study recommendations;
- Consider similar study efforts for Alaska, nuclear power plants and other coastal parts of the nation.

1. INTRODUCTION

1.1 AUTHORIZATION

This study deals with the integration of air and water quality planning, coastal zone management and energy facility siting activities in the coastal areas of California, Oregon and Washington.

The public agencies involved with the issues of environmental quality and land use planning in relation to siting and construction of energy facilities span the full spectrum of federal, state, regional and local jurisdictions. The private entities affected include varied and numerous public interest groups, environmental organizations and resource oriented organizations such as oil and gas associations, power and energy firms, as well as oil and gas companies, electric utilities, pipeline companies and oil drilling platform fabricators.

This study was authorized on September 30, 1977 by the Office of Transportation and Land Use Policy, U.S. Environmental Protection Agency. The consultants undertaking the work are as follows:

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1.2 BACKGROUND AND PURPOSE

During the past decade many important events have occured in this field, including the following:

- National Environmental Policy Act, 1969.
- Federal Water Pollution Control Act Amendments, 1972 and 1977, creating Section 404, National

Pollutant Discharge Elimination System (NPDES); and Section 208, Waste Water Management Planning Process.

- Federal Clean Air Act Amendments, 1970, and 1977 including requirements for State Implementation Plans, Air Quality Maintenance Plans (AQMP); and subsequent regulations for Prevention of Significant Deterioration (PSD) of Air Quality, 1975.
- Organization of the Nuclear Regulatory Council, Energy Research and Development Administration, Federal Energy Office and most recently, the Department of Energy.
- State efforts to deal with conservation and research in addition to planning, regulating and monitoring of energy programs and facilities within their jurisdictions.
- Coastal Zone Management Act, 1972, Amendments of 1976, and related Coastal Zone Management Plans (CZMP) in California, Oregon and Washington.
- Opening of the trans-Alaska pipeline, resulting in an unprecedented flow of oil across west coast ports. In addition, oil discovery and exploration activity on the outer continental shelf off the west coast is creating further pressure for development in the coastal zone.

Recognizing that this plethora of activity and rapid change will continue and grow more complex, the Environmental Protection Agency expressed interest in integrating its responsibilities for planning and regulating air and water quality with the issues of energy development and land use planning in the coastal zone. Accordingly, the study team was directed to examine relevant policies and programs at all levels of government in the west coast states and develop recommendations which would:

- Clarify institutional roles and interagency relationships;
- Simplify policy making, planning, regulatory and review processes;
- Reduce and consolidate duplicatory paper work and repetitive permit applications;
- Consolidate or coordinate time consuming phases of the permit process;

- Improve information flow to and among the private sector as well as among governmental agencies at the federal, state and local level;

- Respond to the concerns about coastal land use planning and energy development shared by developers, elected officials and agency personnel.

The energy facilities considered in this study include oil and gas exploration, extraction, refining, storage, transfer and shipment; thermal power plants, excluding nuclear; and construction and fabricating yards for oil drilling rigs to be used in the outer shelf.

1.3 METHODOLOGY

The work undertaken in this study consisted of the following:

- Interviews with public and private personnel involved with the siting of energy facilities, environmental quality or coastal planning.

- Preparation of six case studies illustrating the siting issues examined.

- Conduct of workshops for decision makers, agency personnel and representatives of private industry.

- Review of current and relevant literature.

- Documentation and analysis of the research.

Following is a description of the methodology used in the study:

1.3.1 Interviews

In October and November, 1977, an extensive series of interviews was conducted with principal federal agency personnel in Washington, D.C. as well as in the offices of Regions IX and X in San Francisco and Seattle. Additional interviews were held with representatives of the key agencies in California, Oregon and Washington as well as with selected local officials and developers of energy projects in the coastal zone. Memoranda of all interviews were prepared and submitted under separate cover to the EPA Project Officer. A list of those interviewed is included in the appendix to this report.

1.3.2 Case Studies

In December, 1977 and January, 1978, six case studies, two for each state, were prepared to facilitate an understanding of the issues involved with energy developments in the coastal zone as well as to investigate the problems involved with the planning, regulation, siting and construction of these facilities. The studies developed are as follows:

1. OCS Oil & Gas Development, Exxon Santa Ynez Unit, Santa Barbara, California
2. SOHIO Petroleum Terminal, Long Beach, California
3. Kaiser Steel Corporation Fabrication Yards for Offshore Oil Well Drilling Platforms: Ports of Everett & Grays Harbor, Washington
4. A Proposal to Construct and Operate a Fabrication Yard to Assemble Offshore Oil Platforms at Warrenton, Oregon
5. A Proposal to Provide a Common Carrier Transportation System for Receiving Crude Oil by tanker at Port Angeles, Washington and Transporting it to Inland Markets
6. Liquified Natural Gas Peaking Plant in Newport, Oregon

Copies of the case studies are included in the appendix of this report.

1.3.3 Workshops

Five workshops were held to discuss the study and elicit direct input from selected federal, state and local governmental officials and representatives of public interest groups and private industry. The technique of small group discussions to permit a maximum amount of interaction and feedback was used successfully. The following workshops were held:

- Agency decision makers, March 13, 1978, San Francisco
- Representatives of public agencies and private firms:
    - State of Washington, April 18-19, 1978, in Olympia
    - State of Oregon, April 26-27, 1978, in Salem
    - State of California, May 4-5, 1978, in Sacramento
- Representatives of agencies and private firms to review report of preliminary conclusions and recommendations, July 13, 1978, in San Francisco

A list of workshop participants is included in the appendix.

1.3.4 Analysis

In the course of the research described above, a great number of problems and potential solutions were identified, compounding the difficulty of categorizing them and reaching reasonable conclusions. The analytical approach developed by the consultants which is described below is an attempt to reduce the large volume of information and opinion to a succinct description of needs and recommendations while retaining the essential elements.

The first step in the process was to convert the myriad uncoordinated elements of the present coastal energy facility siting process into a list of critical problems. A major criterion for evaluating the extensive recommendations garnered from the interviews, case studies and workshops was the degree to which potential changes and/or improvements address these critical problems. Other criteria were applied, including evaluations by participants at the final workshop, resource requirements, and relevancy to the specific needs of the three states. The results were evaluated in a matrix format which reduced a list of 16 possible improvements to 7 measures which the consultants recommend as the most desirible implementation strategies.

The analysis and its results are found in sections 3 and 4 of this report.

2. PRESENT SITUATION

2.1 OVERVIEW

The process of planning and siting energy facilities in the coastal zones of the west coast states as well as elsewhere in the United States, involves a complex interaction of federal, state and local governmental activities. Although this applies to many other regulated enterprises as well, it is especially the case with the present subject. Unfortunately, perhaps because the competing interests involved (need for new energy resources, environmental concerns, clean air and water, etc.) have become important issues only within the last decade, all levels of government have been forced to act and react without time or compelling reasons to come to a consensus concerning their respective roles and responsibilities.

The planning and regulatory systems have evolved to such a point that the comment of one industry participant in the study's final workshop may be prophetic. He expressed the fear that things are getting to the point where "the whole thing will bog down and nothing can get done."

This section of the report provides a general description of the major regulatory programs and agencies involved in the planning and siting process at federal, state and local governmental levels.

2.2 FEDERAL PROGRAMS

- The National Environmental Policy Act and its requirement for environmental impact statements relating to major federal actions.
- Environmental Protection Agency administration of the Clean Air Act and the Federal Water Pollution Control Act.
- Coastal Zone Management Act.
- Outer Continental Shelf Lands Act for development of offshore oil and gas, administered by the Department of Interior.
- Energy resource development activities of the Department of Energy.

Each of these is described below.

2.2.1 National Environmental Policy Act (NEPA)

NEPA articulates the principle that major federal actions are subject to public scrutiny through the requirement for EIS's environmental impact statements. NEPA is administered by the Council on Environmental Quality (CEQ), which has published guidelines for preparation of EIS's by other federal agencies. Major revisions to help reduce time, cost, and duplication of effort are being reviewed at this time.

The most important characterisitcs of the administration of NEPA and the EIS process are these:

- The EIS is prepared by the "lead federal agency", defined as that agency having primary interest in the proposed action; other agencies are classified as contributing agencies, and either participate through interagency agreement in the drafting of the EIS, or review and comment upon the draft EIS prepared by the lead agency.

A typical EIS process consists of three stages: technical studies, preparation and review of a draft EIS, and hearings to receive comments from other agencies and the public. Additional technical work and revisions are undertaken as needed to complete the final environmental impact statement.

- Most federal agencies have published rules to supplement CEQ's guidelines which describe their procedures and requirements for EIS activities; this has resulted in descrepancies among the practices of various bodies.

- Neither NEPA, the CEQ guidelines, nor individual agency regulations place binding time limits upon the various steps in the EIS process.

- Many states, including California and Washington, have enacted their versions of NEPA which require state and local agencies to prepare an environmental impact report on each of their major actions, including the granting of permits for private developments. Thus, major developers often are required to prepare two separate environmental studies, one for NEPA and one for the state.

- The Environmental Protection Agency is not required to prepare EIS documents for its major permitting or regulatory decisions. Its role is to act as a reviewing agency for EIS's prepared by other lead agencies.

- Questions concerning the adequacy of environmental impact statements frequently are resolved in the courts.

The case studies provide numerous examples of some of the problems which these practices introduce into the energy facility siting process. The determination of whether issuance of a certain federal permit constitutes a major federal action subject to preparation of an EIS can have a major effect on the expense and timing of a development proposal; in the examples of the LNG peaking plant in Oregon and one of the platform fabrication yards in Washington, the determination by the Corps of Engineers that an EIS was not required shortened the review process by many months.

The California case studies especially demonstrate interactions between state and federal EIS procedures and the participatory roles of agencies not directly responsible for preparing the document.

In the case of the Sohio marine terminal proposal for Long Beach, the applicant reimbursed the federal government some 4 million dollars for the work involved in preparing a NEPA EIS by the Bureau of Land Management. A similar amount was paid by the private developer to state and local lead agencies (the Public Utilities Commission and the Port of Long Beach) involved in the state EIR. The two studies were carried on concurrently by different groups of agency staff and consultants, maintaining technical coordination by means of a joint state-federal committee. The documents were published within a few months of each other and contained more or less the same conclusions. This is a classic example of duplication of effort.

Dispite this massive, expensive environmental impact assessment process all the information necessary for environmental permit decision making was not produced. When applications for permits for state and federal air quality permits were made after the draft EIS was completed, and even though responsible air quality review agencies had provided technical input to the impact studies, information in the EIS documents was required to be amended, supplemented, and eventually supplanted over an additional year's time by new studies on which permit decisions were based.

The same type of experience occurred to the Exxon Company's Santa Ynez Unit OCS development project in the Santa Barbara Channel.

On November 11, 1971, Exxon filed with the (DOI), U.S. Department of the Interior, a proposed supplemental plan of operations for a first platform in the Santa Ynez unit. On July 23, 1973, DOI published a draft DEIS on this unit, holding hearings between October 2 and October 4 1973. EPA participated by submitting comments and an "ER-1" rating -- "adequate with reservations".-- On May 3, 1974, DOI published a final environmental impact statement and published its favorable decision on August 16, 1974.

Santa Barbara County published a DEIR, draft environmental impact report on rezoning a portion of the property located in Las Flores Canyon on July 12, 1974. This draft was certified as complete by the County Office of Environmental Quality on October 31, 1974, and transmitted to the Planning Commission. On December 18, 1974, after three public hearings, the County Planning Commission approved the zone change subject to 72 conditions.

Still later, on December 31, 1974, FPC, the Federal Power Commission, issued a DEIS for a sub-sea gas pipeline .

In June, 1975, the DOI published a DEIS for the overall development of outer continental shelf resources in the Santa Barbara Channel, containing an evaluation of Exxon's Santa Ynez plan in relation to optimum environmental protection and channel-wide planning strategies. The final EIS on channel-wide OCS activities was published on March 4, 1976.

In spite of these largely duplicatory efforts by DOI, FPC and Santa Barbara County, consensus on impacts and policies was not developed; neither was all necessary information compiled, e.g., none of these documents disucssed in any depth the issue of emissions and the impacts of hydrocarbons from processing plants or tankers.

In contrast to the seemingly inefficient manner in which the environmental impact assessment process was carried out in these two cases just a few years ago, current experience in California indicates that it is possible for state and federal EIS/EIR processes to be consolidated. Joint impact studies are being conducted for several petroleum-related projects under project-specific interagency agreements. Hopefully, the new CEQ regulations governing NEPA will help bring about an even greater coordinated approach.

2.2.2 Environmental Protection Agency Programs

EPA administers a number of air and water pollution control programs which affect the coastal energy facility siting process. Most of these are intended to be delegated to the states eventually, but because of the newness of federal legislation, lack of local resources, or policy disagreement among jurisdictions, EPA retains control of several major programs on the west coast, including the following:

- PSD, prevention of significant deterioration of air quality: all three states;
- New source review (air quality): California
- Approval of state implementation plan under the Clean Air Act, including plans for air quality maintenance and non-attainment areas;
- Air and water quality permit programs for activities on the outer continental shelf which are exempt from regulation by the states.

In addition to these regulatory activities, EPA has an advisory role in many state planning and regulatory activities. It also comments on environmental impact assessment documents of other agencies and participates in federal task forces involved in the preparation of EIS.

On the west coast, California is served by EPA's Region IX office in San Francisco while Oregon and Washington are included in Region X with headquarters in Seattle.

EPA's air quality regulatory activities in California are duplicatory, stemming from the inability of EPA, ARS, the state Air Resources Board, and local air maintenance districts to agree upon a single regulatory and planning process. In both the Exxon and Sohio cases, EPA's staff review of emissions, impacts and permit conditions paralleled similar activities of these local districts and the ARB. In the situation involving Exxon, EPA was party to a dispute concerning which agencies and laws have jurisdiction over facilities in offshore waters.

2.2.3 Coastal Zone Management Act (CZMA)

The CZMA is administered by the OCZM, Office of Coastal Zone Management within NOAA, the National Oceanic and Atmospheric Administration of the Department of Commerce. Working within the guidelines of the act, the states of Oregon, Washington and California have prepared coastal zone management plans which have been approved by the OCZM. The plans outline a process for specific siting decisions involving local or regional bodies operating under state supervision.

In 1976 Congress amended the original act to include, among other things, a requirement that OCZM and the states undertake significant responsibility for energy resource management. For the first time, each state must include an energy element in its coastal plan in order to gain federal approval. California, Oregon and Washington, who have received approval for their coastal plans already, must add this new energy element by November 1, 1978. It is to provide for a six-months coordinated review process and include "a planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for aniticipating and managing the impacts from such facilities". The amendments also established a federal coastal energy impact program to help states and communities deal with the economic, social and environmental consequences of coastal energy developments, including the provision of additional public facilities and services.

Another major aspect of the CZMA which affects energy facility siting is Section 307, which among others requires that all actions of federal agencies, including the issuance of permits and licenses, must be consistent with approved state coastal zone management plans. Detailed procedures for determining consistency with various types of federal activities are set forth.

In applying for a federal permit, the applicant is required to certify that the proposed activity complies with the state's approved program. The federal agency then must circulate a copy of the application and certification to the state's coastal management agency, which has a maximum of six months to register its concurrence with or objections to the consistency of the application. If the state fails to act within this time, its concurrence is presumed conclusively. If it objects to the certification, the federal agency is prevented from issuing the permit or license unless it secures approval of the Secretary of Commerce. New regulations were issued by OCZM on April 15, 1978 to implement Section 307 of the CZMA.

The consistency process gives state coastal zone management agencies potential veto power over those coastal energy facility developments which require one or more federal permits or licenses. Faced with this prospect, the west coast states have proceeded cautiously, as is discussed in Section 2.3 of this report.

The CZMA also delegates significant power over federal activities to state coastal agencies by requiring that state coastal programs be reasonably consistent with federal environmental programs. Section 307(F) of the Act requires that coastal management programs incorporate all relevant local, state and federal requirements established by federal, state or local agencies pursuant to the Water Pollution Control Act and the Clean Air Act, Section 307(f). It does not, however, prevent coastal plans from containing environmental measures more restrictive than those of environmental regulatory agencies.

2.2.4 Outer Continental Shelf Programs (OCS)

The development of oil and gas resources on the OCS, outer continental shelf, is an energy facility siting problem more of importance to California than to Oregon and Washington. A variety of federal agencies are involved in the regulation of OCS developments as provided in the OCS Lands Act of 1953:

-The Bureau of Land Management is responsible for the leasing of OCS lands. It receives nominations and selects tracts to be included in a lease sale; prepares an EIS as well as economic, engineering and geologic information; awards leases to the highest bidders; and grants rights of way for pipelines to transport oil and gas to the shore.

-The U.S. Geological Survey has primary responsibility for overseeing the development of leased OCS tracts. It issues exploration permits; approves exploration and development plans; issues permits for drilling; approves pipelines as part of field development; and issues and enforces regulations and orders covering operational safety of OCS activities. USGS is required to prepare environmental assessment documents for exploratory drilling plans and development plans.

-The U.S. Army Corps of Engineers requires permits for offshore drilling platforms and other structures on the OCS which are potential obstructions to navigation.

-The Coast Guard is responsible for a variety of activities related to navigational safety, worker safety, and oil spill prevention and control in OCS oil and gas developments.

-The Office of Pipeline Safety within the Department of Transportation has jurisdiction over the safety of pipelines, including establishing design criteria.

-In addition to these agencies, other federal, state and local bodies are involved in regulating onshore facilities needed to process and transport OCS oil and gas. Proposals for pipelines, processing plants and tanker terminals have in fact provoked much of the controversy in regarding recent OCS developments in California.

2.3 STATE AND LOCAL LEVEL

2.3.1 California

CERCDC, the California Energy Resources Conservation and Development Commission and CCC, the California Coastal Commission, are the most active agencies concerned with planning energy facilities in California. CERCDC is charged with the development of basic information on energy needs of the state. In addition to preparation of the statewide coastal management plan and supervision of regional coastal plans, CCC is involved in two active siting programs:

1) Designation of areas of the coast which are not suitable for siting of power plants;

2) Active pre-selection and ranking of sites suitable for development of an LNG, liquified natural gas marine terminal.

CERCDC's jurisdiction covers major power plants and transmission lines. Utility company proposals for new power plants are initiated by filing a NOI, Notice of Intent. This requests approval of construction at one of three alternative sites, one of which must be a coastal location. In an 18-month NOI review process, CERCDC must ascertain if the proposed facility is needed; and if so, determine that at least two of the three alternate sites are acceptable. If CERCDC so finds, the utility may then file an AFC, Application for Certification on its choice of the prequalified sites. See Figure 1 for an illustration of this planning and regulatory process.

The performance of CERCDC during its three-year life has been controversial. Several NOI's but no AFC's for major power plants have been issued. One NOI, for the Sundesert nuclear power facility proposed by San Diego Gas and Electric Company, has been rejected. Bills either to limit or modify CERCDC's power or abolish the agency have been introduced into the state legislature during the last year.

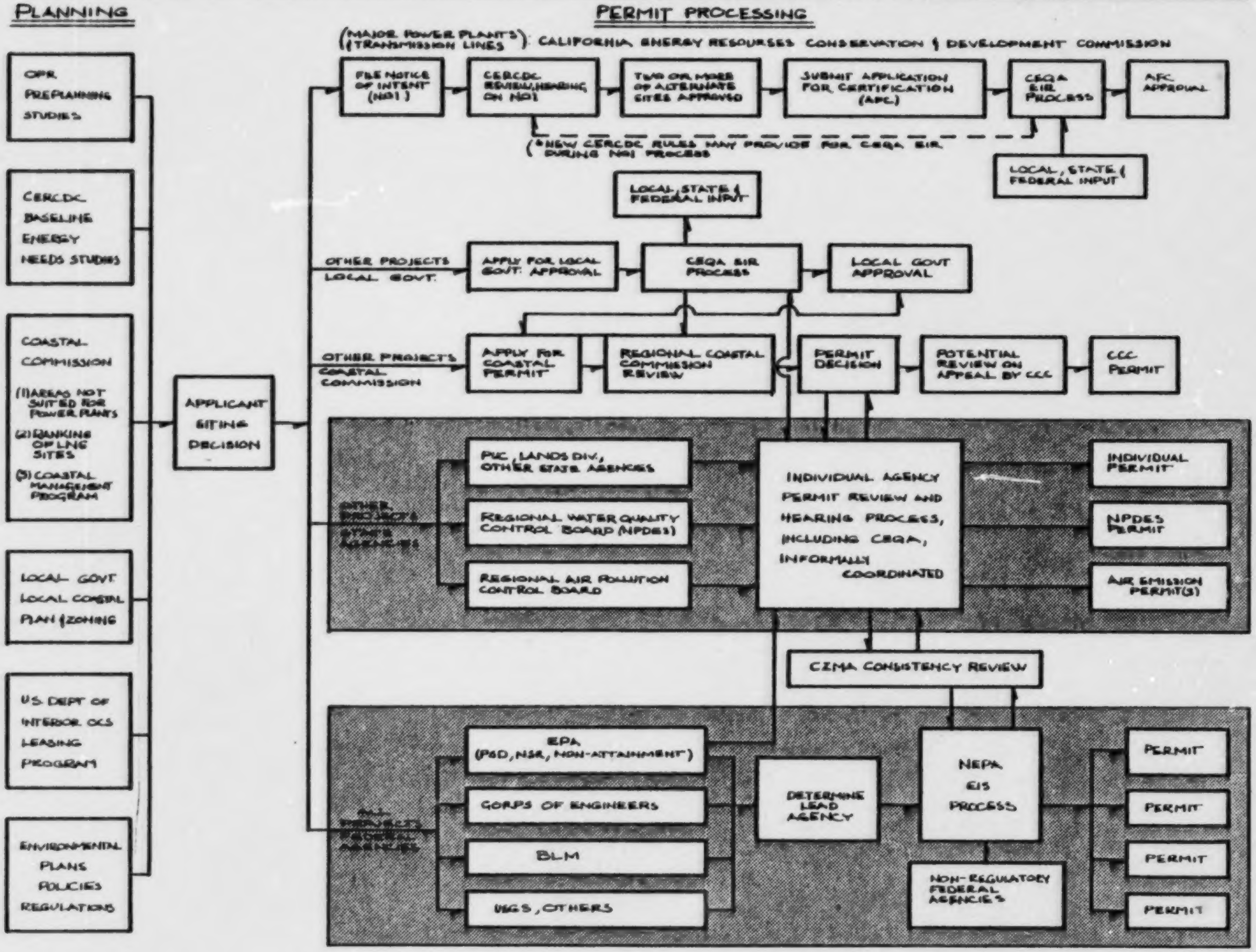
The planning and siting process is more diffuse for facilities not subject to CERCDC jurisdiction. Generally, an application for approval by local government is the first step; this activates the CEQA EIR process with local government as the lead agency. Although environmental and other regulatory agencies are requested by the lead agency to provide input to the EIR process, they are under no obligation either to respond, or to base their permit decisions on information in the EIR. Each individual state and local regulatory agency requires applications, information and public hearings. These may be but are not necessarily coordinated.

The California Coastal Commission plays a major role in the siting of energy facilities on the coast. In addition to its designation of areas unsuitable for power plant developments and ranking of sites suitable for an LNG import terminal, CCC influences the location of tanker terminals, refineries, and support facilities for offshore oil and gas developments. Under the provisions of the Coastal Act, local governmental bodies are in the process of developing coastal programs; until these are certified by the CCC, regional coastal commissions have the responsibility for issuing coastal development permits. The CCC has appeal authority both before and after certification of local programs as well as original authority over development permits for major energy facilities in areas where there is no regional commission or the parties agree to appeal to the CCC.

The Coastal Act contains specific references to certain kinds of energy facilities. Multi-company use of existing and new tanker terminal facilities is encouraged. Tanker facilities are to be designed to (1) minimize the total volume of oil spilled; (2) minimize the risk of collision from movement of other vessels; (3) have ready access to the most effective feasible containment recovery equipment for oil spills; and (4) have onshore deballasting facilities to receive any foul ballast water from tankers where operationally or legally required (Public Resources Code s 30251(a).

Refineries and petrochemical facilities are allowed in California's coastal zone under certain conditions:

Figure 1 Coastal Energy Facility Siting Process California, 1978


PLANNING
OPR PREPLANNING STUDIES
CERCDC BASELINE ENERGY NEEDS STUDIES
COASTAL COMMISSION (1) AREAS NOT SUITED FOR POWER PLANTS (2) RANKING OF LNG SITES (3) COASTAL MANAGEMENT PROGRAM
LOCAL GOVT LOCAL COASTAL PLAN & ZONING
U.S. DEPT OF INTERIOR OCS LEASING PROGRAM
ENVIRONMENTAL PLANS POLICIES REGULATIONS
APPLICANT SITING DECISION
PERMIT PROCESSING
(MAJOR POWER PLANTS) (& TRANSMISSION LINES): CALIFORNIA ENERGY RESOURSES CONSERVATION & DEVELOPMENT COMMISSION
FILE NOTICE OF INTENT (NOI)
CERCDC REVIEW, HEARING ON NOI
TWO OR MORE OF ALTERNATE SITES APPROVED
SUBMIT APPLICATION FOR CERTIFICATION (AFC)
CEQA EIR PROCESS
AFC APPROVAL
(*NEW CERCDC RULES MAY PROVIDE FOR CEQA EIR DURING NOI PROCESS
LOCAL, STATE & FEDERAL INPUT
LOCAL, STATE & FEDERAL INPUT
OTHER PROJECTS LOCAL GOVT.
APPLY FOR LOCAL GOVT. APPROVAL
CEQA EIR PROCESS
LOCAL GOVT APPROVAL
OTHER PROJECTS COASTAL COMMISSION
APPLY FOR COASTAL PERMIT
REGIONAL COASTAL COMMISSION REVIEW
PERMIT DECISION
POTENTIAL REVIEW ON APPEAL BY CCC
CCC PERMIT
OTHER PROJECTS STATE AGENCIES
PUC, LANDS DIV., OTHER STATE AGENCIES
REGIONAL WATER QUALITY CONTROL BOARD (NPDES)
REGIONAL AIR POLLUTION CONTROL BOARD
INDIVIDUAL AGENCY PERMIT REVIEW AND HEARING PROCESS, INCLUDING CEQA, INFORMALLY COORDINATED
INDIVIDUAL PERMIT
NPDES PERMIT
AIR EMISSION PERMIT(S)
CZMA CONSISTENCY REVIEW
ALL PROJECTS FEDERAL AGENCIES
EPA (PSD, NSR, NON-ATTAINMENT)
CORPS OF ENGINEERS
BLM
USGS, OTHERS
DETERMINE LEAD AGENCY
NEPA EIS PROCESS
NON-REGULATORY FEDERAL AGENCIES
PERMIT
PERMIT
PERMIT
PERMIT

> "In addition to meeting all applicable air quality standards, new or expanded refineries or petrochemical facilities shall be permitted in areas designated as air quality maintenance areas by the state Air Resources Board and in areas where coastal resources would be adversely affected only if the negative impacts of the project upon air quality are offset by reductions in gas use emissions in the area by users of the fuels, or, in the case of an expansion of an existing site, total site emission levels, and site levels for each emission for which national or state ambient air quality standards have been established do not increase" (and)"New or expanded refineries or petrochemical facilities shall minimize the need for once-through cooling by using air cooling to the maximum extent feasible and by using treated waste waters from inplant processes where feasible". (Public Resources Code, S 30263.)

These clean water and clean air requirements are supplemental to EPA and state and local regulations. Under Section 307(f) of the Coastal Zone Management Act, nothing in the Act can in any way affect requirements established by the Federal Water Pollution Control Act as amended, the Clean Air Act as amended, or regulations established by either the federal government or any state or local government pursuant. However, EPA's General Counsel has determined that states may incorporate more stringent requirements into their coastal zone management programs and that these need not be part of the state implementation plan (see Interim Guidance for Coordinated Air Quality and Coastal Zone Management Programs, April of 1977, Office of Transportation and Land Use Policy, EPA, page 3). Thus, a determination of consistency with California's coastal zone management program for purposes of prevention of significant determination or new source review in air quality maintenance areas on the coast, requires EPA to check with the Coastal Commission prior to granting any permit for one of its undelegated functions.

The issue of federal consistency determinations under Section 307 of the Coastal Zone Management Act is moot in California at the present time. As a result of a court injunction affecting a major lawsuit by the oil industry against the state coastal program (API vs. Knecht), the state was enjoined from invoking the consistency provisions of the act. When other issues in the suit are resolved, including questions of adequacy, fairness and recognition of national interests, federal permit agencies will have to be responsive to the state coastal law.

OCS developments are a special concern in California, both in relation to the development of present tracts, and as the state implements its lease program for the balance of the coastline. Lease sale #48 for the coast south of Point Conception is scheduled for 1979 while lease sale #53 for the north and central coast is planned by BLM for 1981. Public debate over selection of tracts to be offered in lease sale #48 is increasing, particularly in the Santa Barbara area.

In addition to local government and the Coastal Commission, both of which have permit issuing authority for onshore support facilities for OCS developments, the Governor's Office of Planning and Research (OPR) has taken a strong leadership role in developing information and coordinating California's position regarding OCS oil and gas activities.

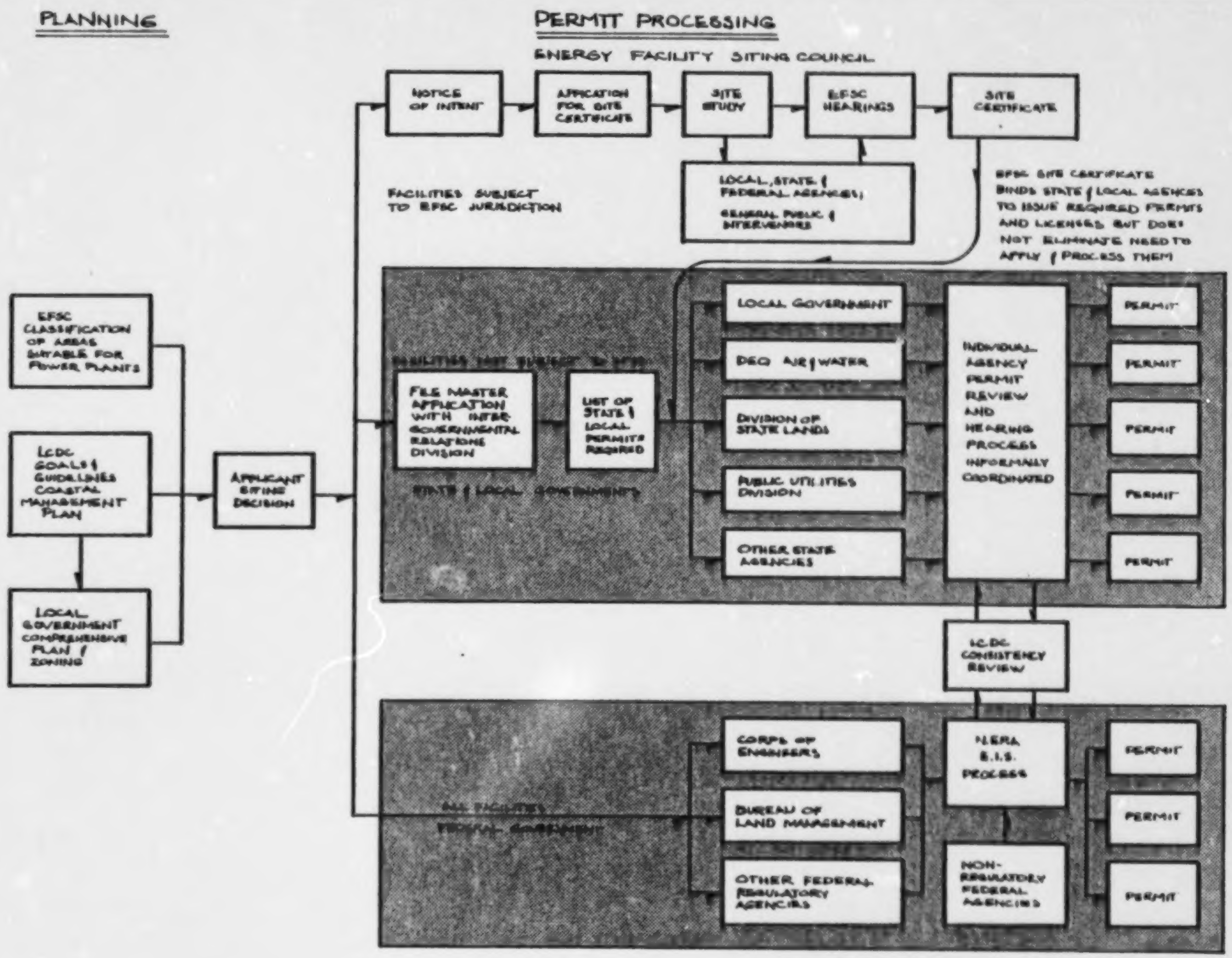
2.3.2 Oregon

Planning for coastal energy facilities in Oregon is divided among several agencies. DOE, the Department of Energy, is charged with developing current information on resource needs and availability. EFSC, the Energy Facility Siting Council, is responsible for designating those areas of the state suitable for siting of major power plants. Basic land use guidelines, coastal management policy and procedures are set forth by the LCDC, Land Conservation and Development Commission, while local governments are responsible for developing detailed comprehensive plans and zoning ordinances. DEQ, the Department of Environmental Quality, has adopted statewide performance standards for air and water quality. The chief regulatory authority over utilities is the PUC, Public Utilities Commissioner. Private industry must keep aware of the programs and responsibilities of each of these key agencies as well as others in considering and applying for permits to develop potential sites for energy facilities.

Currently, LCDC and DOE are developing an energy element which will be incorporated in the state's coastal management plan. It may modify the responsibilities of some of the agencies listed above.

Applicants for power plants and certain major transmission lines and pipelines are required to obtain a site certificate from the EFSC, whose staff is provided by the Department of Energy. While conditions of the EFSC site certificate, developed in consultation with an array of local and state agencies, bind those agencies to issue their various permits and licenses in a certain order, applicants still must request individual permits from appropriate agencies, notably for air and water discharges. Moreover, while it may receive input from federal agencies, EFSC neither supplants nor relies on any federal permit, which must be obtained separately. See Figure 2 for an illustration of the planning and regulatory process in Oregon. Petitioners for facilities not subject to EFSC jurisdiction must obtain individual permits from a number of state and local agencies. The Intergovernmental Relations Division in the Executive Department provides an initial service by helping the applicant determine which agencies require permits, but there is no subsequent centralization of the permitting process itself.

Figure 2 Coastal Energy Facility Siting Process Oregon, 1978


PLANNING
PERMIT PROCESSING
ENERGY FACILITY SITING COUNCIL
EFSC CLASSIFICATION OF AREAS SUITABLE FOR POWER PLANTS
LCDC GOALS & GUIDELINES COASTAL MANAGEMENT PLAN
LOCAL GOVERNMENT COMPREHENSIVE PLAN & ZONING
APPLICANT SITING DECISION
NOTICE OF INTENT
APPLICATION FOR SITE CERTIFICATE
SITE STUDY
EFSC HEARINGS
SITE CERTIFICATE
LOCAL, STATE & FEDERAL AGENCIES; GENERAL PUBLIC & INTERVENORS
FACILITIES SUBJECT TO EFSC JURISDICTION
EFSC SITE CERTIFICATE BINDS STATE & LOCAL AGENCIES TO ISSUE REQUIRED PERMITS AND LICENSES BUT DOES NOT ELIMINATE NEED TO APPLY & PROCESS THEM
FACILITIES NOT SUBJECT TO EFSC
FILE MASTER APPLICATION WITH INTERGOVERNMENTAL RELATIONS DIVISION
LIST OF STATE & LOCAL PERMITS REQUIRED
STATE & LOCAL GOVERNMENTS
LOCAL GOVERNMENT
DEQ AIR & WATER
DIVISION OF STATE LANDS
PUBLIC UTILITIES DIVISION
OTHER STATE AGENCIES
INDIVIDUAL AGENCY PERMIT REVIEW AND HEARING PROCESS INFORMALLY COORDINATED
PERMIT
PERMIT
PERMIT
PERMIT
PERMIT
LCDC CONSISTENCY REVIEW
ALL FACILITIES
FEDERAL GOVERNMENT
CORPS OF ENGINEERS
BUREAU OF LAND MANAGEMENT
OTHER FEDERAL REGULATORY AGENCIES
NEPA E.I.S. PROCESS
NON-REGULATORY FEDERAL AGENCIES
PERMIT
PERMIT
PERMIT

Oregon has no state environmental policy laws which require environmental impact assessments of major projects; as a result, each planning or regulatory agency generally requests specific information from the applicant for its own permit granting or certificating purposes. Aided by a state clearing house, state and local agencies are given an opportunity to comment on comprehensive environmental impact statements prepared by federal agencies.

Of the three states studied, Oregon appears to have the least amount of coastal energy facility siting activity. The two developments used as case studies in this report - an LNG peaking plant and an OCS platform construction yard - are the only CZMA-defined energy facilities built or applied for in the Oregon coastal zone to date. There is some speculation that in the future permits will be requested to expand the Newport LNG facility to provide for importation by tanker; coastal sites for nuclear power plants have occasionally been discussed but never seriously proposed by a utility. Prospects for significant findings of oil and gas on the outer continental shelf are generally considered slim. All the state's major population centers are inland.

Any facilities proposed will be reviewed under the fairly straightforward review process described above. Uncertainty in the state at the present time is limited to the need to resolve how the LCDC will address the question of CZMA Section 307 consistency determinations in forthcoming regulations.

Workshops and case studies in Oregon generally identified state-federal coordination as the most significant problem area. Most of the discussion on this subject in Sections 3 and 4 of this report is relevant to Oregon, particularly suggestions dealing with the need for early consultation and definition of decision criteria and information requirements.

All EPA programs in Oregon presently are delegated to DEQ for enforcement, with the exception of PSD. DEQ works closely with EPA Region X staff on PSD reviews; it is assumed that DEQ will accept operational responsibility for the program when resources are available. This delegation of responsibility should eliminate the need for direct interaction between the applicant and EPA.

2.3.3 Washington

Coastal planning which affects the siting of energy facilities in Washington is essentially the responsibility of DOE, the Department of Ecology, and local government. Thus far, primary efforts have been directed to developing local shorelines master plans and the statewide coastal zone management program, which is administered by DOE. Specific amendments to the coastal zone program which consider energy-related matters are now being established by DOE.

In addition to its planning efforts, DOE also has adopted air and water quality standards which are applicable in all areas of the state. It has full responsibility for water quality enforcement programs statewide, and cooperates in air quality management programs with regional authorities which operate under powers delegated by DOE.

Three processes related to energy facility siting and permitting operate in Washington. Energy plants, transmission facilities and energy transmission corridors of a specified size are the responsibility of the EFSEC, the Energy Facility Siting Evaluation Council. The EFSEC process shown in Figure 3 is essentially a one-stop permit system since EFSEC can prempt all local and state permitting authorities in the development of a site certification agreement. Chaired by an appointee of the Governor, EFSEC has members from all state agencies involved in permitting. Through the EFSEC review and hearing process these agencies have a direct opportunity to influence the final decision and establish conditions for the certification agreement. EFSEC has a small staff and relies on other agencies and consultants for technical assistance. While it may receive input from federal agencies, it neither supplants nor relies on any federal permit.

Two options are open to developers of facilities not subject to EFSEC review; these are generally small power plants, transmission facilities and construction yards. One is a coordinated approach provided for by ECPA, the Environmental Coordination Procedures Act of 1973. An applicant can voluntarily file a master application with DOE. As shown in Figure 4, that agency will coordinate the application process and hold combined state hearings as needed. The end result is the approval or denial of individual local and state agency permits, differing from the master permit which is issued by EFSEC. There is ample provision in the ECPA process for an applicant to withdraw from the system and seek permits independently.

The second option for developers of non EFSEC facilities is to seek individual local and state permits on their own. DOE offers assistance to applicants by helping identify permitting requirements.

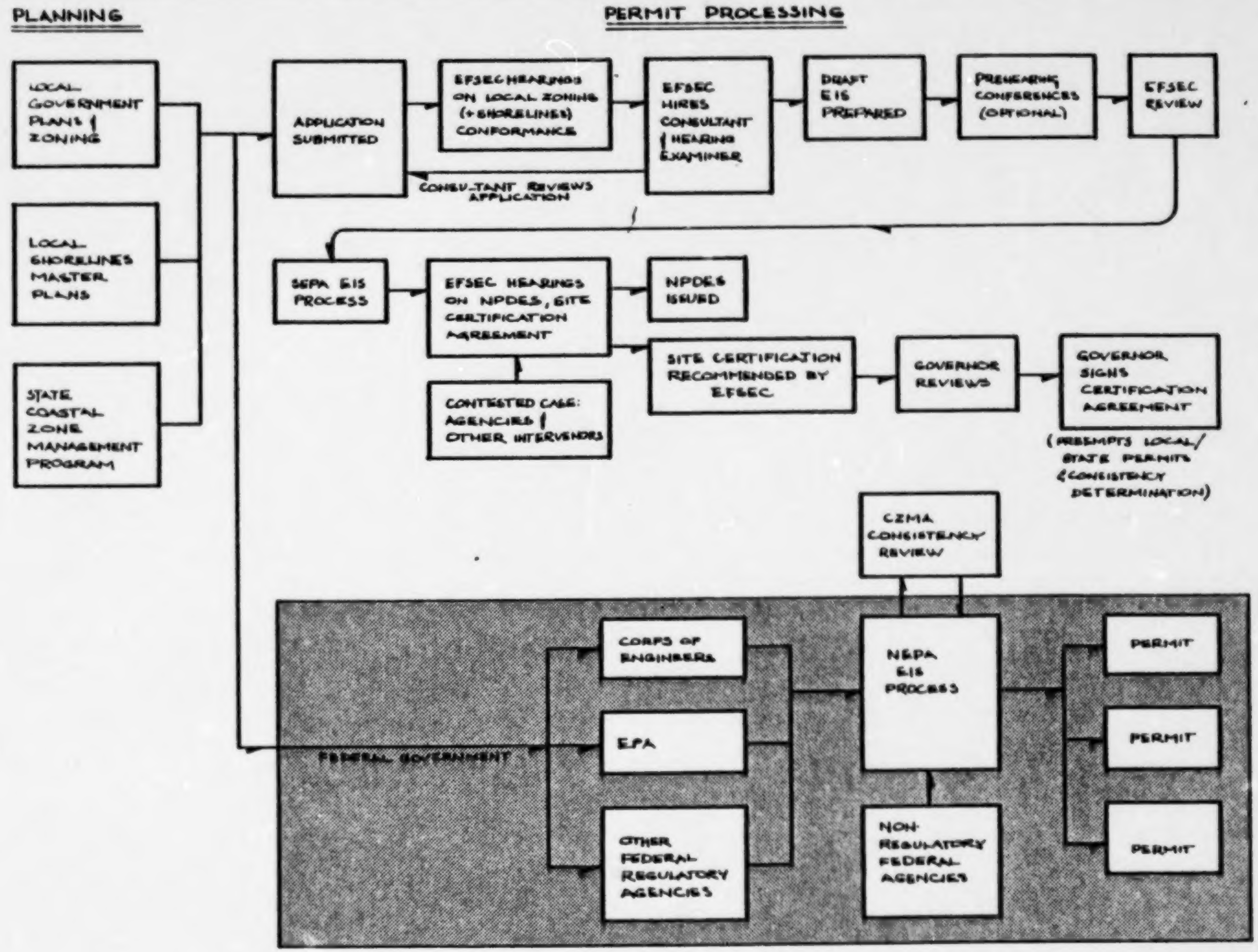
In all three procedures, provision is made for SEPA EIS review and determination of consistency of coastal zone i.e., shoreline plans.

Energy facilities which may reasonably be expected to locate on the Washington coast include OCS platform fabrication yards, oil transport and processing facilities, and possibly LNG plants. The probability of significant OCS oil and gas discoveries is reported to be low, and the prevailing opinion of interviewees and workshop participants is that no utility would attempt to locate a power plant on the Washington coast with the present political and regulatory climate and the availability of ample inland sites.

Figure 3

Coastal Energy Facility Siting Process   Washington, 1978

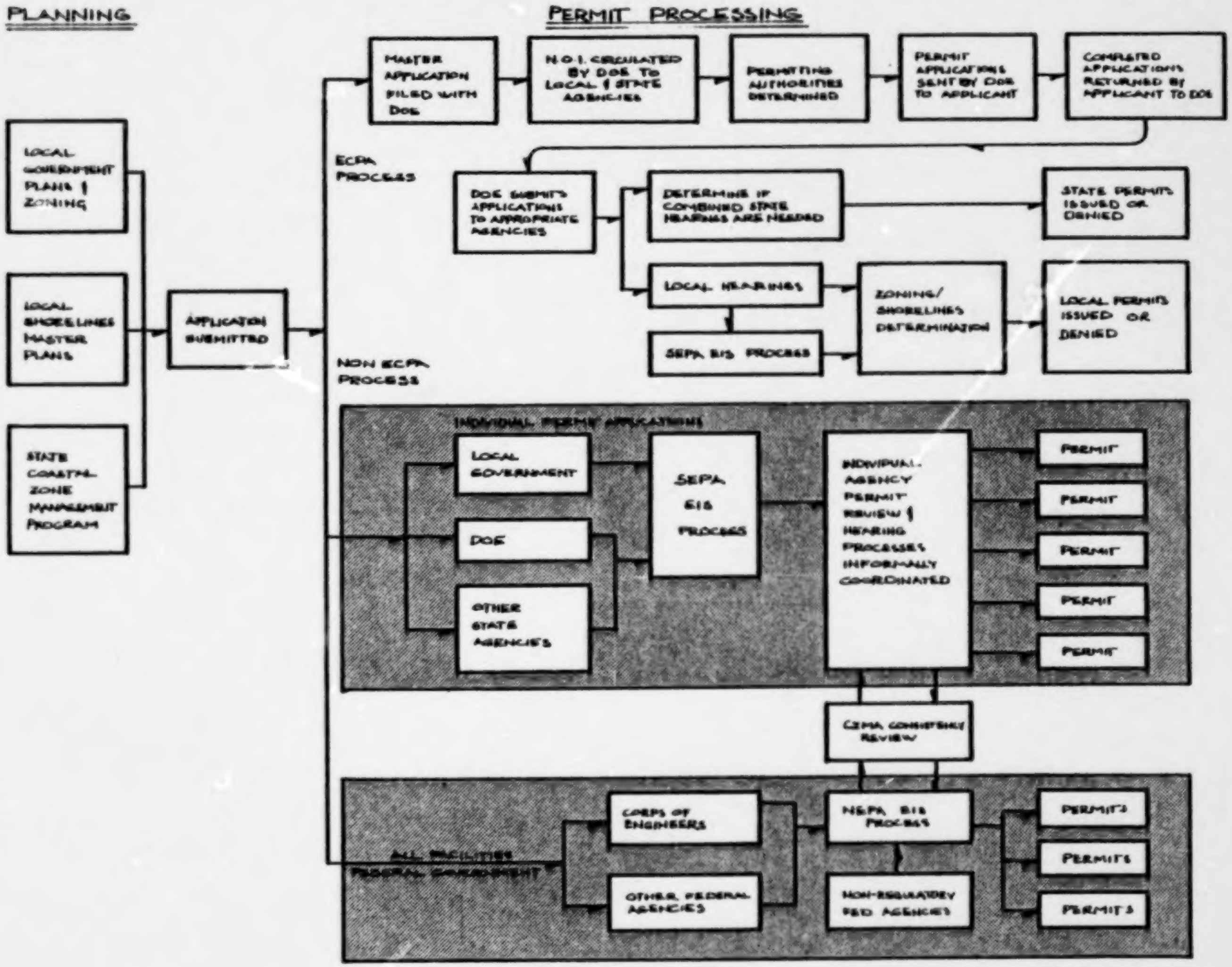
1. EFSEC


PLANNING
PERMIT PROCESSING
LOCAL GOVERNMENT PLANS & ZONING
LOCAL SHORELINES MASTER PLANS
STATE COASTAL ZONE MANAGEMENT PROGRAM
APPLICATION SUBMITTED
EFSEC HEARINGS ON LOCAL ZONING (+SHORELINES) CONFORMANCE
CONSULTANT REVIEWS APPLICATION
EFSEC HIRES CONSULTANT & HEARING EXAMINER
DRAFT EIS PREPARED
PREHEARING CONFERENCES (OPTIONAL)
EFSEC REVIEW
SEPA EIS PROCESS
EFSEC HEARINGS ON NPDES, SITE CERTIFICATION AGREEMENT
NPDES ISSUED
CONTESTED CASE: AGENCIES & OTHER INTERVENORS
SITE CERTIFICATION RECOMMENDED BY EFSEC
GOVERNOR REVIEWS
GOVERNOR SIGNS CERTIFICATION AGREEMENT
(PREEMPTS LOCAL/ STATE PERMITS & CONSISTENCY DETERMINATION)
CZMA CONSISTENCY REVIEW
FEDERAL GOVERNMENT
CORPS OF ENGINEERS
EPA
OTHER FEDERAL REGULATORY AGENCIES
NEPA EIS PROCESS
NON-REGULATORY FEDERAL AGENCIES
PERMIT
PERMIT
PERMIT

Coastal Energy Facility Siting Process Washington, 1978

2. Non-EFSEC Facilities

Figure 4


PLANNING
PERMIT PROCESSING
LOCAL GOVERNMENT PLANS & ZONING
LOCAL SHORELINES MASTER PLANS
STATE COASTAL ZONE MANAGEMENT PROGRAM
APPLICATION SUBMITTED
ECPA PROCESS
NON ECPA PROCESS
MASTER APPLICATION FILED WITH DOE
N.O.I. CIRCULATED BY DOE TO LOCAL & STATE AGENCIES
PERMITTING AUTHORITIES DETERMINED
PERMIT APPLICATIONS SENT BY DOE TO APPLICANT
COMPLETED APPLICATIONS RETURNED BY APPLICANT TO DOE
DOE SUBMITS APPLICATIONS TO APPROPRIATE AGENCIES
DETERMINE IF COMBINED STATE HEARINGS ARE NEEDED
STATE PERMITS ISSUED OR DENIED
LOCAL HEARINGS
SEPA EIS PROCESS
ZONING/ SHORELINES DETERMINATION
LOCAL PERMITS ISSUED OR DENIED
INDIVIDUAL PERMIT APPLICATIONS
LOCAL GOVERNMENT
DOE
OTHER STATE AGENCIES
SEPA EIS PROCESS
INDIVIDUAL AGENCY PERMIT REVIEW & HEARING PROCESSES INFORMALLY COORDINATED
PERMIT
PERMIT
PERMIT
PERMIT
PERMIT
CZMA CONSISTENCY REVIEW
ALL FACILITIES FEDERAL GOVERNMENT
CORPS OF ENGINEERS
OTHER FEDERAL AGENCIES
NEPA EIS PROCESS
NON-REGULATORY FED AGENCIES
PERMITS
PERMITS
PERMITS

3. EVALUATION

This section of the report presents an evaluation of the most critical problems in the process of integrating air and water quality planning with the siting of energy facilities in the coastal zones of California, Oregon and Washington. These were derived from information accumulated during the course of this study - primarily through interviews, case studies and workshops discussed in Section 1. Six major problem categories are described in terms of their institutional, jurisdictional, environmental, economic and political ramifications.

Also included in this section is a presentation of actions which have the most potential for effectively resolving the problems encountered. They are identified under three principal headings:

- Policymaking and Planning;
- Regulation;
- Administration

This evaluation of problems and potential actions or solutions is presented within the present allocation of authority and responsibility among federal, state and local agencies described in Section 2.

3.1 CRITICAL PROBLEMS

The great variety of problems suggested by interviewees and workshop participants consulted during the course of this study suggests at first glance that the difficulties associated with the energy facility siting process are either endless, or so singularly different for each situation, that it is difficult or impossible to find commonalities. Many characterize the problems by their requirements, (too time consuming, too repetitive, too complicated, too costly, etc.), While others blame industry, politicians, lawyers, environmentalists, etc. Still others are overwhelmed by the complicated interactions and transactions required. The following list covers the major concerns uncovered by this study:

1. Inadequate information dissemination
2. Weak planning and policy linkages
3. Fragmented and/or overlapping jurisdictions
4. Lack of regulatory coordination
5. Changing laws and regulations
6. Inadequate resources

Following is an evaluation of each of these:

3.1.1 Inadequate Information Dissemination

The problems in obtaining accurate information and making it readily available to all parties in the planning and regulatory process cannot be overemphasized. It is exemplified on the national level by the absence of accepted projections of national energy needs, and on the local by imprecise data on all the probable impacts of proposed development. Some of the elements of the problems are:

- Most information concerning energy needs is based on incomplete technological and economic projections and assumptions about future decisions.

- Conflicts between interest groups often arise over disagreements about these projections. In addition, useful technical data often is considered confidential by the private sector which is reluctant to allow it to be widely disseminated.

- Many of the most critical concerns in the energy and environmental areas are subject to rapid political change and new findings; hence the information base quickly becomes out of date.

- Procedures for updating information are not uniform among differing jurisdictions and program areas.

- Mechanisms for disseminating information and making use of what has been done already are not adequately developed or applied uniformly.

- Information requirements of individual agencies involved in permit and environmental impact assessment activities vary widely and are not always available in written form.

This lack of an organized approach to information management is apparent in most of the problems with the siting system, especially lack of policy consensus, inability to arrive at timely decisions, duplication of effort, controversy and costliness.

3.1.2 Weak Planning and Policy Linkages

Policy making and planning for coastal energy facilities is most often in response to private initiatives rather than an agressively developed system which establishes criteria and conditions for analysis and approval. Furthermore, in the absence of active and decisive planning and policy making, the regulatory system takes control of the siting process, often leading to inconsistent and ad hoc policy decisions.

Except as indicated in Section 2, specific area suitability planning for energy facilities in the coastal zones of California, Oregon and Washington is neither sufficient nor precise enough to deal with the special issues under concern.

Failure to give direction to policy making or to identify policy alternatives results in insufficient guidelines for regulatory activities. Without a planning process, conflicts are not resolved and tradeoffs not accommodated except in relation to specific regulatory actions which are prompted by individual applicant requests. Consequently, ad hoc planning and policy decisions may be made without determining their relationship to a broader set of economic, environmental and social considerations. In the general absence of an active planning process, and overall policy direction the single purpose regulatory system fills the vacuum, often to the detriment of balanced planning and policy formation and implementation.

Some of the elements of this problem are:

- Permit applications often are reviewed and approved or denied without the guidance or influence of a comprehensive plan or policy.

- Many agencies have regulatory responsibility with neither the authority, personnel or other resources for planning.

- Public interest groups and citizens in general, faced with the uncertainies of an inadequate or non-existent planning and policy making process, often feel they have no recourse but to become adversaries to applicants and the regulatory agencies responsible for issuing the permits.

- Incentives and other mechanisms for bringing private industry into the public planning process are not adequate to enable government to utilize this valuable resource.

- Coastal zone planning is not specific enough to deal with the particular issues raised by the siting of energy facilities.

3.1.3 Fragmented and/or Overlapping Jurisdictions

There has been a proliferation of laws and regulations affecting energy facility siting; lack of uniform application has created confusion, duplication, and frustration among governmental jurisdictions. One cause is the nature of most legislative solutions, which are specific and problem oriented rather than general and broadly applicable. The laws themselves often create intergovernmental conflicts, i.e., air pollution controls which encourage dispersion of sources, vs. water pollution controls which encourage concentration of sources; energy self-sufficiency goals vs. environmental regulation; preservation of natural coastlines vs. the need to disperse sources of air pollution from urbanized areas.

With unclear or contradictory direction from the legislative branches of government, as well as competing interests, legal uncertainties and rapid technological change, administrative agencies charged with implementation responsibilities face an almost impossible task. Some manifestations of the problem are the following:

- Nearly every energy project, regardless of its overall merit with respect to national or local interests, is vulnerable to veto by one or more single purpose agencies.
- Decision making in some areas, notably in the development of oil and gas in the outer continental shelf, can be nearly paralyzed by uncertainties about which federal or state agencies have jurisdiction over certain activities.
- Public or political impatience with awkward or untimely decision making invites political intervention on an ad hoc basis, (e.g., gubernatorial and congressional involvement in the Northern Tier pipeline), which may solve the immediate issue but further clouds the question of overall policy. See case study #5.
- Preemption of the authority of some agencies by a centralized siting authority, as is found in part with power plants and some other types of energy facilities in the west coast reduces but does not totally eliminate interjurisdictional problems while introducing additional political and legal factors into the process.
- As a result of a variety of factors, including resource availability, jurisdictional rivalries, and disagreement over administrative procedures, delegation of federal responsibilities to states has been uneven. Those retained programs inevitably require duplicate reviews.
- Without cooperation among agencies, special purpose planning efforts e.g., 208 wastewater plans, AQMP's, comprehensive transportation plans, CZMP's, etc., lead to studies which are repetitive, costly, and confusing to the public.

These and other aspects of the jurisdictional problem are responsible for many of the negative characteristics of the siting process frequently noted by interviewees and workshop participants.

3.1.4 Lack of Regulatory Coordination

Another major difficulty closely related to the problem of fragmented and overlapping jurisdictions is the tendency for agencies to carry out their permit and project reviews independently, designating no single unit to be responsible for coordinating or expediting the process.

This lack of interagency and intergovernmental coordination is caused in part from the failure of legislation and regulations to provide clear, consistent guidelines for the actions of the numerous agencies involved. Not only are planning and regulatory functions generally uncoordinated among agencies within an individual state, but the problem exists on a larger scale as well. Where federal, state and local agencies are involved and there is a wide variation in priorities, political realities and competing values, coordinating action is discouraged.

Some elements of this problem are the following:

- Many federal and state agencies do not have the legal authority to remove themselves from case by case reviews of projects.
- Lawmakers have been reluctant, for political and other reasons, to involve an agency at one level of government in the operations of another.
- Linkages between functionally allied regulatory operations, e.g., air and water quality, are not adequate or sufficiently binding.
- Substantial hostility and mistrust exists between public agencies and private entities, some of which is engendered by the perception of private industry that the review process is inconsistent, arbitrary and excessively time consuming.

3.1.5 Changing Laws and Regulations

A constant stream of new or modified laws, regulations, rules, standards and programs keeps the energy facility siting process in a state of disequillibrium, not only after changes are made but in anticipation of them. While this problem was more common to private industry, as expressed through our study interviews, it was also an issue with representatives of state and local agencies. It was generally conceeded, however, that mistakes should be corrected promptly and changes which improve the process should be encouraged.

Some elements of this problem are as follows:

- Institutional, jurisdictional and political barriers make it difficult to clarify, simplify and codify new laws and regulations in a timely manner.

- States still are searching for the most effective and appropriate role to play in the federal consistency process called for under the CZMA.

- New laws and regulations often do not consider impacts on the time and cost induced by changes.

- There are no comprehensive or integrated environmental or energy policies to provide guidance to the numerous separate and unrelated laws and regulations affecting the siting of facilities.

- In an effort to expedite an involved permit process, industry often hurries to submit project plans for approval even though clear interpretations of new regulations may not yet be available.

3.1.6 Inadequate Resources

While new regulatory activities often are assumed by government without adequate attention to the corresponding requirements for additional resources to carry them out, there is a pervasive and growing hesitancy by both citizens and elected officials to expand budgets and staffs of governmental agencies.

Taxpayer efforts to impose strict statewide limits on property taxes is a likely forerunner of nationwide pressure to reduce all forms of taxation. Such a threat to governmental revenue production will make it difficult for planning and regulatory agencies at all levels to find sufficient resources to carry out any new responsibilities.

Some elements of this problem are as follows:

- Energy siting evaluations in environmentally sensitive coastal areas can be extremely time consuming and costly.

- Larger budgets and staffs do not necessarily guarantee more timely and adequate consideration and processing of applications.

- Measures of productivity and effectiveness in regard to project application review are not generally developed or available, thus making it difficult to allocate resources in proportion to need.

- A corollary to the need for additional resources is the need to use existing resources as efficiently as possible and to devise methods which do not require additional funds or new personnel.

- Some existing mechanisms of coordination, such as the A-95 clearinghouse process, are not as effective as they might be, primarily because agencies have inadequate funds to carry out this function.

3.2 POTENTIAL ACTIONS

Following is a list of 16 actions considered in this analysis as potentially capable of resolving the problems cited in the previous sections of this report:

3.2.1 Policymaking and Planning

1. Developing accurate, consistent and complete data base
2. Stimulating and managing public participation
3. Encouraging energy agency participation
4. Improving A-95 evaluations
5. Instituting site suitability planning
6. Encouraging land banking of sites

3.2.2 Regulation

1. Developing early warning systems for critical issues
2. Disseminating project information and permit criteria
3. Expediting permits through a facilitator
4. Conducting concurrent reviews
5. Integrating environmental impact assessments
6. Improving consistency determinations
7. Delegating federal authority

3.2.3 Administration

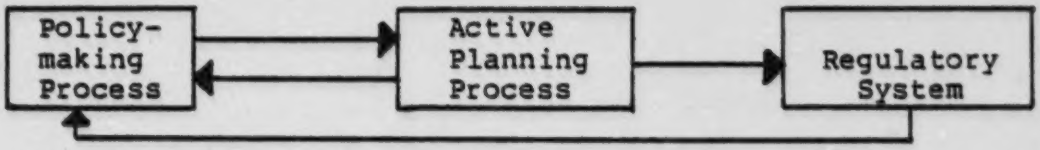
1. Allocating adequate resources
2. Measuring effectiveness
3. Clarifying agency roles and responsibilities

A description of each proposed action is contained on the following pages.

3.2.1 Policymaking and Planning

Planning as a tool for resolving conflicts in the permitting process was cited by officials in the three states as potentially important to improving the entire system. It was generally agreed that an active planning process which considers environmental resources, land use, and social and economic issues as they relate to energy facility siting will help improve the regulatory function.

Policymaking is the process which establishes direction and guidelines for specific governmental action. A well executed planning process can relate policies to the regulatory system, as indicated in the following chart in which the planning process provides a bridge between policymaking and regulation. Regulating actions in turn should be reflected in policymaking and planning.



In this section six potential actions which may create stronger linkages between policymaking and planning processes are described.

1. Developing Accurate, Consistent and Complete Data Base

a) *Specificity, quality and quantity of data needed for energy facility planning should be sufficient for anticipated federal, state or local decision making and consistent with the needs of the specific project under consideration.*

b) *Maximum utilization of existing technical data sources is desirable. These include technology and information transfer programs and federal information systems from the Departments of Defense, Agriculture, Energy and others now seldom used for local or state energy facility planning. Where applicable, states should apply for State Science, Engineering and Technology (SSET) program grants available from the National Science Foundation.*

c) *Interagency memoranda of agreement should specify data requirements, including appropriate methods for collecting, storing and publishing, as well as means to share costs of these activities.*

An important component of an effective energy planning process is agreement on basic factors such as population served, energy resources needed, economic growth expected environmental safeguards required and others. At present, there is little, if any, national, regional or state consensus on these basic indicators. Consequently, decisions of individual agencies can be subjective, contradictory and arbitrary. Related to this issue is the problem of overlapping federal, state and local jurisdictions. Effective planning requires the early and continuing participation of all affected agencies, including agreement on individual and shared responsibilities.

The problems of collecting, maintaining, updating and retrieving information are difficult at best; in a situation as complex as energy facility siting in a coastal area, the obstacles are more formidable. At the minimum, however, public and private participants at all levels must agree upon the information they need and will accept as valid. If an energy policy decision affects one region of the country, the data should reflect a regional perspective; if the decision is essentially local or state in nature, the information should be pertinent to these perspectives.

2. Stimulating and Managing Public Participation

a) Regular, concerted efforts should be undertaken to inform the public and obtain input beyond the normally required public meetings; the formats should stimulate productive participation in the planning process, utilizing workshops, task forces, citizen committees and other devices.

The politics of environmental management and energy, especially as related to the subject of facility siting, creates a ready forum for public discussion and controversy.

To help insure that special interest groups as well as the general public not only are informed about the issues involved, but have the opportunity to express their priorities and concerns to planners and decision makers, it is necessary to provide frequent and convenient opportunities to disseminate and receive information. Opportunities for public involvement should be available early in the energy planning process as well as during those phases devoted to regulation. They should be utilized both for imparting information to the public about the critical issues as well as providing a means for obtaining feedback about public attitudes, priorities and concerns. The public at large, as well as special interests, should have opportunities to become involved in the planning issues related to environmental concerns, energy needs, site suitability and alternatives, as well as the more detailed aspects of a specific site, particularly those related to the project itself and the environmental and other important impacts anticipated.

This effort requires initiation and followthrough by the lead agencies, both at the federal and state level. While allocations for personnel and other costs are necessary, no special authority is required. The various planning, regulatory and managerial actions discussed in Section 3.2 should be interwoven with a public information and feedback process. When the public does not have adequate opportunity to participate constructively in decisions about important projects such as energy facilities, adversary positions may be taken, creating a highly politicized and emotional environment. In such a situation, demands for political intervention and resort to the courts often appear to be the only alternatives. The Northern Tier Pipeline project in the State of Washington is a good example of how political intervention locally in Port Angeles as well as at the gubernatorial and congressional levels has caused additional strain upon a volatile facility siting situation.

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b) Informational public hearings should be considered as part of the pre-application process for determining permit criteria, and information requirements. For each appropriate level of review planning, regulatory bodies should establish a system for consolidating hearings and combining all public input into a well-defined time period.

The number and timing of public hearings is a significant source of concern for many of those involved with the siting of energy facilities. Problems include the excessive number required; redundancy, i.e., hearings on the same subject matter held at different times by different levels of government; time delays and expense to agencies and participants; and the public's difficulties in following a sometimes repetitive process over a long period of time.

The undesirable effects of an uncoordinated permitting system are further exacerbated when hearings continually raise controversial aspects of a proposal before one public body after another. Individuals or groups opposing a development may use each successive forum to reiterate their views, regardless of their relevancy to the deliberations of the particular sponsoring agency. On the other hand, care must be taken to insure that all groups and individuals have adequate opportunities to express their concerns about the important environmental, energy and land use issues involved. Depending on the circumstances, it may be necessary to hold several hearings on one issue.

An important adjunct to a concurrent permitting process is provision for joint public hearings whenever possible. The new CEQ regulations for NEPA implementation, directing federal agencies to reduce duplication and cooperate with state agencies to the fullest extent possible, recommend this approach.

The practical extent to which hearings may be consolidated can be expected to vary from project to project. In the case of the Sohio marine terminal, for example, thirteen separate hearings were held by one agency, the South Coast Air Quality Management District. If the permit process as a whole becomes more coordinated, the public participation program, too, can be expected to be more orderly. Under a centralized master siting authority such as EFSEC in the State of Washington, a well structured series of hearings on specific subject matter is held. This process serves the public's need for exposure to the issues while being administratively efficient.

A related issue is the need for early exchange of information among applicants, agencies and the public. One approach is to conduct an informational public hearing as part of the pre-application process during which permit criteria and informational requirements are established. The benefits of public involvement at this stage include not only giving the public advance knowledge of the proposal, but also assisting agencies and applicants to identify critical public concerns before informational requirements are developed.

In regulatory processes which involve many independent permitting authorities, the extensive number of decision makers involved may be a barrier to extensive consolidation of hearings. Whether the process is legislative or adjudicatory, some agencies have responsibilities which are sufficiently unique to justify holding their own hearings. Careful judgment must be applied to develop criteria and guidelines for single as well as coordinated and consolidated hearings.

Consistent with other recommendations in this report, it is both desirable and possible to establish, during the pre-application scoping stage, a coordinated hearings process for each proposal. Federal agencies are required by CEQ regulations to participate in such an endeavor; state and local agencies should structure their regulatory systems to participate in like manner.

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c) *In responding to public notice of hearing requirements under the new CZMA regulations, each state should integrate its consistency determinations into its other decision making processes affecting the siting of energy facilities in the coastal zone.*

The new CZMA regulations on consistency determinations give the responsibility to each state agency to insure that public notice is provided which is both timely and in proportion to the degree of likely public interest. The state agency can do the work itself, require it of the applicant, or rely upon action of the federal reviewing agency. In preparing consistency concurrence programs states need to assess realistically how they can comply with the six-month requirement for public notice and possible public hearings.

3. Encouraging Energy Agency Participation

a) State energy agencies should become more active participants in the process of amending state coastal zone management plans in accordance with 1976 CZMA amendments requiring the addition of an energy element.

b) As the agency charged with development and implementation of national energy policy, the U. S. Department of Energy should be a more active participant in the review of energy elements of state coastal plans submitted in response to the 1976 CZMA amendments.

In all three states, active efforts are underway to add an energy element to state coastal plans in accordance with the 1976 amendments to the Coastal Zone Management Act. In each state the agency charged with preparing this addition prepared the original state coastal plan and is oriented to land use and environmental planning. Though they may be asked to evaluate, review and comment, state energy departments are not being given sufficient primary responsibility for this important task. One of the impediments noted throughout the coastal planning process on the west coast, insofar as energy facilities are concerned, is the basic lack of information and expertise in these complicated technical matters among public agencies. This puts government at a disadvantage when it has the responsibility to validate industry's assertion of present needs and predictions for the future. Furthermore, the absence of technical expertise makes it difficult to coordinate environmental and coastal/energy facilities planning.

4. Improving A-95 Evaluations

A higher level of priority and greater use should be made of A95 evaluations and review processes associated with the siting of energy facilities in the coastal zone; state and regional clearinghouses should request funds from their legislatures and appropriate federal agencies to administer these functions properly.

A potentially effective tool already exists to improve interagency and intergovernmental coordination at the state and substate regional levels: the A-95 review system and the clearinghouse function. Neither activity appears to be utilized to any significant extent as a coordinating mechanism for energy facility siting in any of the three states. To accomplish this, it would be necessary to increase the number and capability of clearinghouse staff and assign a higher priority to activities concerned with the interface of environmental and energy siting activities. At the same time, more resources would need to be made available to substate regional agencies and councils of governments to facilitate A-95 processing and clearinghouse review at the local level.

As each of the three states has completed coastal zone planning to the extent that the OCZM has approved the plans as complying with the CZMA, each is in a position to utilize the consistency requirements embodied in Section 307 of the CZMA and merge consistency determinations with the A-95 process. This would enchance their ability to coordinate energy facility siting with environmental and coastal zone planning.

The major barriers to be overcome in implementing these proposed improvements to the coordinating process are related to financial and personnel resources. Federal and state financial assistance should be made available to increase and train staff within executive department agencies and at regional levels so that they can carry out the coordination functions more effectively.

5. Instituting Site Suitability Planning

a) OCZM should encourage active site suitability planning, rather than development of only a planning "process", as part of a state's responses to the 1976 CZMA amendments.

The siting of energy facilities in the coastal zone will remain controversial for the foreseeable future. Within such a volatile atmosphere, reactive regulation, i.e., permit processing only in response to private initiatives, may not be in the public interest. An active site suitability planning process, would provide a more satisfactory basis for making the important public decisions and committments needed.

The authority for each state to undertake active planning to predetermine sites suitable for all types of energy facilities as part of coastal zone management was provided in the 1976 amendments to the CZMA which also established the Coastal Energy Impact Program. Through such legislation, the federal government appears to be encouraging active planning for determining the suitability of various energy-related activities in the coastal zone.

While there are advantages to the public of a site suitability planning process, there also are some difficulties. One problem is the burden placed on the agency carrying out the planning to be informed about an array of technical site information, characteristics, configurations, etc. A related problem is that private developers are reluctant to reveal their design data and requirements, Exhibiting little confidence that government representatives can understand or emphasize with their unique problems.

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b) Specific time intervals, conditions and other procedures for updating energy facility siting should be initiated to insure a stable basis to support the permit process.

An active planning process which is maintained and updated regularly should yield the specificity necessary to guide the issuance of permits. Unless it can be shown that conditions have radically changed or that new information or technology clearly requires a plan reassessment other than a regular updating, the adopted plan should provide a stable framework for permitting decisions. In addition, unless it is shown not to be in the public interest, the plan in effect when the energy facility permit application is initiated, not the subsequent revision, should be the base for permit review. If the applicant or the governmental agency believes the revision is a more appropriate review document, procedures for reinitiating the permit requests should be available.

6. Encouraging Land Banking of Sites

If the availability of coastal sites for energy facilities is in fact an important national priority, the federal government should consider a policy of federal land banking of suitable sites; this should be supported by an integrated active planning process.

Once the concept of giving state agencies active site suitability planning responsibilities is accepted, a possible implementation tool is a system of prior acquisition, or land banking of suitable sites for energy facilities.

Such public action was suggested numerous times during the course of this study by both public and private representatives. It would simplify specific project certification because presumably the public agencies would have made prior suitability determinations when the site was acquired. However, the sites selected and acquired by public agencies may not meet the needs of private entities appearing in the future with special requirements. Furthermore, the uncertainty of leasing and/or selling the land may make this idea politically unacceptable.

Although states or even local governments could undertake such a land banking activity, it would be a more appropriate function for the federal government, primarily because of the multi-state nature of most major energy facilities, and the need to determine and balance national priorities.

Precedents for federal action in the public interest can be found in the current partnership between government and private enterprise in the Hanford, Washington reservation, and of course, the encouragement to railroad expansion by providing land to private enterprise in exchange for building a national transportation network. Any such action undoubtedly would create considerable controversy and be very complicated to implement. No attempt is made here either to identify all the pertinent issues or find the means to resolve them.

3.2.2 Regulation

The optimum regulatory process should have these characteristics:

- local, state and federal participation;
- lead agencies at each level of government;
- clearly understood permit and information requirements;
- means to determine critical issues early.

In addition to inertia and basic resistance to any change, barriers to institutionalizing such a system include:

- differing programs, sometimes conflicting objectives and inconsistent priorities of individual agencies;
- varying procedures for selecting lead agencies;
- reluctance of agencies to commit themselves to specific requirements for review of controversial facilities in the absence of a reliable body of information about a project and its impacts;
- choice of some applicants to work with one agency at a time to gain relatively easy permits first as a means of establishing legitimacy and applying pressure on subsequent reviewing bodies.

Substantive reformation of the regulatory process depends upon the presence of a strong, interrelated planning and policy making system. The most satisfactory way to achieve such reform would be to eliminate the present system of requiring permits one by one in a lineal manner in favor of integrating the process so that issues which have a critical impact upon one another can be reviewed and detected readily. The latter review process would involve a) establishing performance criteria by which to judge energy projects; and b) giving authority to regulatory agencies to stop an operation if the activity exceeds satisfactory levels.

Thus, after comprehensive and dependable policies and plans have been established, a developer such as an oil, gas or electric company would be appraised of the location of suitable sites, the most critical and urgent environmental and other issues, public facilities and services required, and the procedures which must be followed to obtain project approval. Structuring the process to safeguard the public interest while not penalizing the applicant unfairly is a principal which has been applied to all the recommendations in this study.

Once levels and measures of overall performance for energy facilities are clearly defined, it is possible to design a project review and monitoring process which would be more consistent and dependable. A means then could be found to integrate reviews for air and water quality, land utilization, proximity to population centers and other aspects peculiar to energy facilities. The successful application of performance standards requires the development of a means to measure compliance with the standard. EPA's program to control non-point sources of water pollution through the federal Clean Water Act is an example of the performance evaluation approach which can be applied to energy facilities and result in a more satisfactory process and decision.

In this section, seven specific actions for creating a more effective regulatory process are presented.

1. Developing Early Warning Systems for Critical Issues

Each state should develop an appropriate pre-application process, involving local, state and federal agencies, to determine permit and information criteria, lead agency responsibilities, and critical substantive issues.

At the earliest possible date, agencies and the public should be informed of an impending energy facility application permit and the requirements for approval. A determination should then be made about which permits or issues are most critical, i.e., most likely to create major controversy and possible lack of approval. Public agencies and industry have a vested interest in dealing with these critical issues as early as possible to allow for sufficient public discussion and give the applicant time to withdraw from the process after a minimum investment of resources if it becomes obvious that the controversy may become too protracted is likely to result in disapproval of the project, or the public requirements are not to the applicant's advantage.

The situations studied in this report provide examples of the "early warning" issue. In the case of the Sohio oil terminal, early consultation by the applicant with several agencies resulted in timely completion of the impact assessment process, but insufficient attention to the critical issue of air quality resulted both in project delays and extraordinary controversy. The need for early consultation of all major actors is illustrated again in the Northern Tier Pipeline case, in which the applicants' neglect of contact with local government resulted in animosity toward the project which eventually resulted in negative legislative and judicial actions. In an opposite experience, early consultation with all levels of government by the Northwest Natural Gas Company can be largely credited for the orderly review and approval of its LNG project at Newport, Oregon.

2. Disseminating Project Information and Permit Criteria

a) The Governors of the three states and key agency heads should direct all agencies involved with energy facility siting in the coastal zone to improve methods for sharing information concerning a specific permit, including preparation and circulation of a fact book and information packet.

A problem frequently mentioned by federal and state personnel was the difficulty in obtaining accurate, thorough and current information about a proposed project. Oftentimes this information is considered proprietary and not available to a public agency at any level. Frequently, however, information made available to one agency never is communicated to others.

Examples of communication difficulties were found in all six of the case studies and were mentioned often in interviews and at the workshops. The problem is caused in part by the fact that no single agency has a leading role in managing all parts of the energy facility siting process and therefore none has the responsibility either to collect relevant and accurate up-to-date information or to distribute that data to others. The system closest to this ideal is the EFSEC process in the State of Washington where all state agencies involved convene as a body to review and comment on a permit application.

The Washington EFSEC could serve as a model for other states and federal agencies. Multi-agency committees can hold regularly scheduled meetings at which time participants would share pertinent data with one another and build a technical information base for a project.

The State of California initiates work on all permit applications with sessions called a "scoping meeting" where the issues concerning a given permit for a specific site or facility are determined, responsibilities of each participant and the jurisdictional roles of each agency clarified, and a list of the specific permits needed prepared. At such a meeting agreement to develop and distribute information should be made by all the agencies involved.

Another opportunity for improving the quality, reliability and quantity of information available to each agency is to consolidate permit forms, environmental impact statements, and hearings so that all agencies involved would utilize the same data. The advantage of such a step would be to insure that all reviews of impacts, need, consistency and regulatory conformance are based upon the same information and criteria.

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b) *Local, state and federal agencies should:*

- *establish generally applicable, detailed criteria for needed information and permit approval;*
- *agree to means of adapting and applying generalized requirements to specific project proposals;*
- *provide a coordinated process for action on an application, including specific time limits and allowance for feedback concerning adequacy, need for more information, etc.*
- *make decisions in a timely manner following acceptance of an application, while allowing for extensions made necessary by significant changes in project scope or design during the review process.*

Representatives of private industry frequently complained about the difficulty of ascertaining the environmental criteria their projects must meet and identifying the requirements for information to be submitted with applications or developed in environmental impact statements.

In 1977, the California legislature recognized the need for orderly and consistent determination of requirements when it enacted AB-884, a general revision of the state's laws governing environmental review and permit processing. Included in the provisions of the law are requirements that all local and state agencies publish lists of required permits and information necessary for applications; that agencies determine within 30 days of receiving an application whether information submitted is adequate for acceptance; and that once the application is accepted no new information may be requested. Combined with specific time limits for decision making by all agencies, as well as other features, AB-884 provides a sound model for a legislative solution to the problem under discussion.

Such an approach is not without its problems, however. It has been observed, for example, that by legislating rigid time limits, AB-884 may cause all permit developments to take the maximum time as agencies pace their review of all projects uniformly. To cope with this problem, some flexibility in timing may be more appropriate. A potential danger of limits on supplementary information requests may be to cause agencies to become excessively cautious in drafting requirements and to demand needlessly detailed information. Furthermore, AB-884 does not provide a means of resolving serious disputes between applicants and agencies over the adequacy, accuracy or completeness of data submitted. It also appears to be silent on the important question of how agencies should respond to an applicant's redesign of a project requiring an amendment to its application.

However accomplished, the need to establish criteria and other requirements is intimately related to concepts concerning early interagency consultation, environmental impact assessment, permit sequencing, and time requirements. Depending upon the overall structure of local and state regulation, more or less flexibility may be provided. In order to accommodate process variations from state to state, federal agency responses to this issue must be flexible and capable of responding to each state's needs, within the statutory limits of each agency's authority.

Workshop participants generally chose a relatively flexible process where determination of criteria and requirements is established during and shortly following an initial multi-agency pre-application conference. Although predetermined general requirements were considered appropriate for the guidance of applicants, it was recognized that the inevitable uniqueness of each proposal would require some tailoring to individual needs.

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c) *The EPA regional offices, the Federal Regional Councils, or some other suitable state or multi-state entity should take the initiative to form a professional association of environmental coordinators from government and industry to encourage the exchange of ideas, information and techniques regarding environmental impact analysis methodology, project review procedures, and permit processing criteria.*

Throughout the often confusing and controversial process of siting energy facilities in the coastal zone, it is apparent that personal relationships are extremely important in dealing with the conflicts and problems between the public and private sectors and within each. Success in dissemating project information and permit criteria to all participants in the process depends ultimately upon the competence and good will of the people involved. Both qualities would be served by the creation of voluntary professional associations of environmental coordinators, bringing together multi-disciplinary specialists from all levels of government and the private sector. In pursuit of the objectives of improving skills, developing mutual understanding, and providing the basis for continuing improvement in the EIS/EIR process, such an organization could follow the typical pattern of professional societies, utilizing newsletters, periodic symposia, and informal opportunities to develop meaningful interpersonal communications. The fostering and nurturing of such an association could be undertaken by the regional offices of the Environmental Protection Agency, the Federal Regional Councils or a suitable state or multi-state regional unit.

3. Expediting permits

a) The Governors and the lead agencies in each of the three states, as well as appropriate federal agencies, should establish the position of permit expediter, whose function will be to manage, coordinate, and facilitate review, evaluation and permit of major energy facilities in the coastal zone.

Probably the most frequent complaint, both by public and private individuals involved with the energy facility siting process, concerns the amount of time, effort and expense required to manage, identify, evaluate and properly consider the numerous issues involved. While each of the three states has created a commission to monitor certain types of energy facilities, no body has control over all types of energy facilities; neither does any one have the principal regulatory control over the most adverse environmental impacts caused by these facilities. As a result, a private energy company oftentimes is faced with the prospect of moving one at a time through hundreds of steps with little sense of direction and virtually no assurance that at any point in the process, it will not be forced to repeat a task for one agency which has substantially been completed for another, or redo a document which varies only slightly from one prepared earlier.

An important way to resolve this difficulty would be to identify a federal and state official who would serve as project expediter from the inception of the proposal to final site certification and granting of permits.

The role of an expediter has been suggested before. Section 1501.8 of the CEQ draft regulations of December 12, 1977 provides that the lead agency may designate a person to expedite the NEPA process. An April 7, 1978 memorandum from Cheryl Wasserman, Acting Branch Chief, Policy Planning Division of EPA to Barbara Blum, EPA Deputy Administrator, reporting on the status of the new source review task force, discusses the use of a new source permit facilitator/expediter in each regional office of EPA. The memorandum describes several responsibilities for this person:

"- early identification of sources and coordination of pre-application conferences with new sources;

- new source applicability determinations;

- coordinates specific permit reviews for sources requiring involvement more than one EPA office;

- establish coordinated administrative review procedures for multiple permit reviews, especially coordinated public notices and review proceedings;

- track sources through a permit tracking system (at least for multiple permit reviews)"

Not only EPA but other agencies, federal and state, should consider appointment of an expediter, a senior official who, because of experience, personal qualifications and authority can function independently of both the public agencies and the private companies involved and gain the respect of both. The expediter would serve both as coordinator and facilitator of the process and may, in some instances of complicated issues, be assigned only to a single project. An appropriate federal agency from which the expediter could be appointed is either the OMB, U.S. Office of Management and Budget, or one of its FRC's, Federal Regional Councils. Another agency which could serve as a supplier of personnel is the OTA, Office of Technology Assessment. The most logical state agencies are those which either are directly connected with the Governor or have unquestioned high level management responsibilities for energy facility siting in the state. California's Office of Planning and Research, Oregon's Intergovernmental Relations Division and Washington's Energy Facilities Siting Evaluation Council appear to be logical choices for this responsibility.

Congressional and state legislative approval undoubtedly would be needed to provide the full authority, staffing and budget needed to carry out these functions successfully. Further authority needed from the lawmaking bodies would be guaranteed time limits and "deeming" responsibilities to assure that public agencies perform their review functions within specified periods of time after which the project would be "deemed" to be approved. California's AB-884 serves as a model for this approach.

A problem which may face the expediter, whether from a federal or a state agency, is the conflict which could ensue between the legitimate public interest to assure environmental safeguards, land use consistency and other public needs and the pressure of the private entity whose interest the expediter would represent to the public agency. However, the difficulties inherent in resolving this conflict would be a small price to pay for the benefits gained to all concerned from a more efficient and expeditious process.

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b) In each state an appropriate lead agency should be empowered to adopt, jointly with the federal lead agency, a set of legally enforceable time limits governing all stages of each energy facility permit proposal, taking into account the unique features of the project.

One of the purposes of this study is to identify and recommend means to shorten inordinately time consuming aspects of the permit process. Indeed, most of the issues and recommendations discussed in this report have some relation to the need to expedite the process and avoid unnecessary delays.

AB-884 was passed in California at least in part because of legislative impatience with what appeared to be excessive review time required by agencies. Recognizing the desirability of coordinating state actions with federal programs operating on different time schedules, however, the statute provides for extensions of time as required to allow a federally prepared environmental impact statement to serve as the state lead agency's required environmental impact report.

When it drafted its proposed regulations to implement the National Environmental Policy Act, the President's Council on Environmental Quality considered the question of time limits and concluded that "although...universal time limits for the entire NEPA process are too inflexible to prescribe, federal agencies are encouraged to set time limits appropriate to individual actions". (CEQ Draft Regulations on National Environmental Policy Act, December 12, 1977, Sec. 1501.8) The regulations require the lead federal agency to set time limits if an applicant so requests, and provides a list of seven criteria to consider. Restrictions may be imposed either on the overall NEPA process or upon constituent parts. Local and state agencies would benefit from providing flexible mechanisms for establishing flexible time limits for their own review processes.

While the time limiting mechanisms will depend upon the basic structure of each state's regulatory system, they should contain at least two elements:

- a single state/local lead agency authorized to establish binding time limits on all other agencies
- an interagency agreement among lead state/local and federal agencies to collaborate on the establishment of time limits for each stage of the process

4. Conducting Concurrent Reviews

Consistent with sound public policies, each state should implement mechanisms for assuring a maximum level of simultaneous permit processing by all governmental agencies.

This action has similar time saving attributes of others described in Section 3.2.2. Case studies in this report indicate that without special institutional arrangements or ad hoc efforts by applicants and agencies, the permitting system for energy facilities can and will become a sequential or serial process.

Workshop participants uniformly condemned sequential permit processing and placed high priority on developing systems which foster simultaneous or parallel consideration of permits by all agencies.

5. Integrating Environmental Impact Assessments

a) Joint state/federal environmental impact statements should be prepared for projects which cause substantially similar impacts or concern to both levels of government.

While many problems associated with multiple environmental impact statements are the natural results of difficulties associated with new laws, and some are being solved by the states of California and Washington and the Federal Council on Environmental Quality, careful attention needs to be given to environmental impact evaluations of large energy facility projects in the coastal zone.

Current experience in California shows that it is possible for state and federal EIS/EIR processes to be consolidated into a single unit. Joint impact studies are being conducted for several projects at the present time, under project-specific interagency agreements. These cooperative processes are available under any circumstances that the responsible state and federal officials choose to work together.

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b) Federal agencies should become more active participants in state environmental assessment processes than they are now. EPA should make every effort to participate in the EIS/EIR process.

In cases where for one reason or another joint statements are not possible, it is still important to achieve the highest possible level of state-federal coordination. Joint technical committees such as were employed in preparing the EIS and EIR for Sohio marine terminal, would be a minimum step in this direction.

Federal agencies should attempt to participate in state procedures as much as possible. If the state lead agency has statewide jurisdiction, under Section 102(D) of the National Environmental Policy Act of 1969, EPA and other federal agencies can participate by furnishing guidance. In fact, under Section 309 of the Clean Air Act, the EPA administrator has the duty to review and comment on any major federal agency action which requires an environmental impact statement.

Under AB-884, California has developed a mechanism for participation by requiring the lead agency to request guidance on the "scope and content of environmental information" needed for preparation of a California EIR. The applicant has the right to request a meeting between the lead agency and responsible federal, state and local agencies to determine the "scope and content of environmental information" needed for the EIR. Such a meeting must be held as soon as possible but not later than 30 days after being requested. If a private applicant cannot elicit the participation of the federal agencies in the state process, California provides for its participation in the federal process, providing that the guidelines of the state are met an applicant also can ask for the assistance of the California Office of Planning and Research.

Frequently, delay is caused because the agencies responsible for air and water permits do not participate in the initial EIS/EIR process and later require additional or different data at a later time. The Sohio case study (Section 2.2.1) is an example of this problem.

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c) *Integration of the impact assessment process into the regulatory system should be accomplished by adoption of the nine step system described below.*

It is critical that the environmental impact assessment process be totally integrated into a rational and coordinated regulatory system which combines state, local and federal interests. The process described below represents the framework of relationships and sequences of a system which is both functional and realistic. It combines many common elements of the optimum processes suggested by participants at the workshops held in the course of this study.

The first step in this process is the preparation by the applicant of a short paper concerning the nature of the project, the forseeable environmental consequences, the number of agencies involved, and the requirements or criteria of each agency for approval of permits.

Step two requires the applicant to consult with the state or federal agency which appears to be key to making the decision concerning the application.

Step three should consist of two parts: (1) a general announcement to the public about the project: and (2) the convening of a scoping meeting between the applicant and all local, state and federal agencies which may have been given permit-granting authority or special expertise concerning the application. The agenda for this meeting should include items suggested in two sections of the Draft Regulations to Implement the National Environmental Policy Act, published December 12, 1977 by the CEQ, Council on Environmental Quality. Section 1501.7 deals with the format, purpose and function of scoping meetings; Section 1508.23 with the range of actions, alternatives and impacts to be considered in an environmental impact statement. Ideally, there would be two scoping meetings: the first to include an explanation of the project by the applicant provisions for time for general questions by the agencies. Scoping meeting two would carry out the agenda set forth in CEQ's proposed regulations. If is critical that lead agencies and time limits be established at this second meeting. Under AB-884, California has a process for identifying criteria to be used by state and local agencies in making permit decisions. These criteria should be set in the scoping meeting. Another result of the meeting should be the designation of an expediter; (see 3.2.2, part 3, of this report and the proposed CEQ regulations, 1501.8(b)(2).). In addition, a clear statement concerning basic requirements for approval of the project should be made. This could be in the form of a master application form.

Step four should consist of the applicant's response to the master application form prepared at the scoping meeting, including any initial impact data requested or required. A time limit for response should be established. If several permits are necessary the lead agency should coordinate circulation of the application.

Step five should be completion of the DEIS by the lead agency and cooperating (under CEQ guidelines) or responsible agencies.

Step six should be a joint hearing or series of hearings on the combined DEIS/DEIR and the necessary permits. Every effort should be made to schedule these hearings at the second scoping meeting.

Step seven is the filing of the FEIS/FEIR with the requisite depositories.

Step eight requires the agencies to reach a decision. If they can make them known concurrently, time consuming multiple appeals can be prevented.

Step nine allows for court test(s) of the decisions.

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d) Both headquarters and regional offices of EPA should take the lead in organizing workshops and task forces to help meet new CEQ rules requiring all federal agencies to revise their EIS procedures; the goal should be to achieve maximum uniformity of impact statements and reduce federal barriers to intergovernmental cooperation.

e) In accordance with new CEQ regulations, all federal EIS activities should be consolidated with state and local actions, using the California and Washington environmental quality acts as models.

It is recommended that EPA sponsor a workshop involving appropriate federal personnel to discuss the impact of the new CEP regulations effecting EIS preparation and the opportunities they offer for making agency procedures more uniform. Following such a meeting, working groups and task forces should develop recommendations for each agency to follow. Input from the Regional level should be coordinated with concurrent efforts at agency headquarters to develop a greatly improved set of federal agency EIS guidelines. This probably should be sponsored by EPA in concert with CEQ.

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f) State coastal plans should be amended to require that EIS's or EIR's be submitted to the state coastal planning agency as part of the required information before the six month consistency determination period begins; OCS consistency regulations and state consistency procedures should specify the role of the EIS in the consistency determination process.

The new OCZM consistency regulations do not adequately integrate the EIS/EIR process with the system for determination of consistency. Because California and Washington have their own little NEPA laws, it is likely that in most cases they will, either alone or in conjunction with the federal government, prepare some type of environmental assessment. In Oregon, which has no EIS process, a determination of significant effect on the coastal zone could well be the impetus for a federal EIS.

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g) Oregon should encourage federal agencies issuing permits subject to consistency determinations to prepare EIS's; it also should require, as part of its information base, preparation of either a draft environmental impact statement or an environmental assessment in connection with a negative declaration.

Although Oregon does not have an EIS process the state has specified numerous federal permits and licenses which it believes may have a significant effect in coastal land and water uses. To make a proper assessment of the effect on such uses, much of the basic information required by an EIS will be needed by Oregon. If the information were properly packaged the determination of consistency would be much easier.

6. Consistency Determinations

a) Working in conjunction with federal agencies, state agencies should, where necessary, refine the list of permits, subject to consistency determinations, to assure inclusion of all federal license and permit activities which can reasonably be expected to affect the coastal zone significantly.

Adopted in June of 1976, Washington's coastal zone management program, including its federal consistency provisions, was the first in the nation. Oregon was second and California followed. In terms of which federal permits were selected for consistency review by the state, Washington's Operational Guidelines for Federal Consistency (amended June 1, 1976 and now being revised) require review of a minimal number of permits. Oregon's system is more extensive and California's appears inclusive. Under the new regulations, if a federal permit or license is not listed in the coastal zone program and the state coastal zone lead agency receives notice that a permit is to be issued by a federal agency and fails to object within 30 days from notice, it loses the right to review.

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b) State coastal zone agencies should amend their coastal zone management programs to include descriptions of the data they need to assess the consistency of listed federal license and permit activities.

None of the coastal zone programs reviewed for purposes of this report clearly specify information needed by state agencies in order to determine the consistency of proposed federal license and permit actions with the state's coastal zone management program. The new regulations provide that, "the management program as originally approved or amended may describe requirements regarding the data and information necessary to assess the consistency of federal license and permit activities". (15 C.F.R. s930.56(b)) Under the regulations, the six-month review period commences upon submission to the state agency of the certificate, information and data necessary under the state's coastal zone management program. If the state agency's requirements are not specified, the six-month period may elapse before all necessary information is obtained.

7. Delegating Federal Authority

EPA should continue its current efforts to delegate air quality programs under SIP, state implementation plan procedures, encourage uniform NSR, new source review rules, and adopt PSD, prevention of significant deterioration procedures. The agency also should take vigorous steps to eliminate overlapping agency activities in air quality regulation.

One often mentioned means of improving coordination, decreasing paperwork and time, and greatly simplifying the regulatory process, is for federal agencies to delegate additional authority to appropriate counterpart agencies at the state and local levels. This is accomplished effectively now with NPDES permits in all three states, and most air quality permits in Oregon and Washington as well. California's system suffers as the result of the inability of EPA and the state Air Resources Board to reach an agreement on the state implementation plan and the new source review process.

Although delegating authority can remove one layer of government from the process, there are several major barriers to its universal application as a means of simplification:

- As federal laws change and become more complex, many state agencies become reluctant to request or accept delegation, due either to disagreement with the federal approach, political controversy or burdens of cost and lack of expertise.

- Reinforcing the concern above, the formation of skilled technical staffs at the EPA regional level tends to promote continuing acceptance by both parties of federal involvement.

- In Washington and California, operating responsibility for air programs is delegated to local or regional agencies, thus complicating the issue by involving the state agency as an intermediate delegatee-delegator. Furthermore, most local agencies are even more reluctant than the states to take on costly, controversial and technically complex new programs.

3.2.3 Administration

The necessary administrative functions of management, coordination, resource allocation, communication and evaluation usually are assigned to the directors, managers and senior personnel of the lead federal and state agencies involved with energy siting, coastal planning and environmental control. Usually, this executive cadre carries the technical responsibility for most of the planning and regulatory workload and reports directly to elected or appointed policy makers.

Three actions which would improve the administrative practices which relate to policy making, planning and regulation of the siting of energy facilities in the coastal zone are described in this section.

1. Allocating Adequate Resources

a) Sufficient resources should be provided to permit identification and resolution of problems and conflicts early in the planning and regulatory processes.

b) Recognizing that in environmentally sensitive coastal areas, energ siting issues can be extremely time-consuming and costly, resource allocation should be commensurate with the specificity and difficulty of the planning and regulatory tasks. Site suitability planning and collection of other technical information may be especially costly.

c) Identify and strengthen key management and budgeting agencies at the federal and state level; develop instruments to evaluate and monitor individual agency's utilization of money, personnel and time.

Even though simplification of the energy facility siting process is an important objective of this study, without adequate resources, it may be tempting to simplify the system too much, resulting in insufficient public safeguards. For example, unless the resources are available to insure that national air standards are properly enforced, the value to the public of an improved process is lost. Adequate data, qualified personnel, and improved evaluative technology are critical to insure that national, state and local policies are properly prepared, evaluated, and implemented.

Throughout this study, the complaints frequently heard from representatives of oil companies and private utilities was the lack of coordination among governmental agencies, the time consuming steps required for permit processing, and the seemingly inexhaustible appetite of public agencies for information and documentation. On the other hand, the main problems articulated by governmental personnel were insufficient funding, time and staff to cope with all the demands placed upon them to evaluate and review applicant plans adequately. The answer, however, is not always to allocate more resources. For example, in Washington, EFSEC has a small technical staff of five individuals whereas the California Energy Commission employs about 500. The larger number of personnel does not necessarily guarantee more expeditious consideration of and processing of applications. In fact, the California Commission does encounter complaints by industry that projects are not processed in a timely fashion and that there is an inconsistent approach to review. Washington's EFSEC depends on other agencies and outside consultants to provide technical assistance. Consultants fees are paid by applicants while state agencies derive their finances from the general or special funds. In the last session of the Washington legislature EFSEC's review responsibilities were expanded without commensurate additional funding, thus potentially creating a greater financial burden for the participating state agencies.

Another example of the resource allotment problem is in Oregon where the Energy Facility Siting Council has no budget of its own and relies upon the State Department of Energy for its staff. This situation creates problems of priority and resource allocation between the two bodies.

In order to identify and allocate the resources appropriate to the agencies responsible for planning and regulating energy facilities in the coastal zone, a more adequate system of process management is needed which indertakes the following:

- identify, in specific measurable units, agency responsibilities and the time required for accomplishing them.
- allocate money and manpower to agencies in proportion to their responsibilities and time requirements.
- monitor the use of these resources so that an efficient and reasonably functioning process results.
- establish a management entity with the skill, experience and capability for accomplishing these tasks.

One possible way to achieve more effective management of available resources is to strengthen the capability of key executive department agencies which already are assigned responsibilities for management and budgeting. For example, in each of the ten federal regions there is a FRC, Federal Regional Council, under the U.S. Office of Management and Budget. Each FRC could be assigned the responsibility for monitoring and evaluating the effective utilization of federal resources in its area. At the same time, state agencies such as the California Office of Planning and Research, the Oregon Intergovernmental Relations Division and the Washington Office of Financial Management, could assume similar responsibilities for monitoring the use of resource by state agencies involved with the process of energy facility siting.

Instruments for documenting and evaluating agency effectiveness and performance also must be developed. For example, a format for analyzing cost, time and personnel could be devised to report information in a document which is published and reviewed regularly for review by executives in the management and budgeting agencies identified above. Comparisons of the work of several agencies which process proposals for similar types of facilities would then be possible. For example, agencies which consume inordinately large amounts of time or require substantially large staffs in relation to outputs could be identified so that remedial action could be taken by the appropriate management and budgeting units.

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d) *Before approving amendments to coastal zone management programs providing for local participation in determinations of consistency, OCZM should make sure that local governments have adequate funds and staff to carry out these programs.*

In varying degrees, energy facilities in the coastal zone are situated in accordance with local coastal plans. In all three states these local plans will be part of future coastal zone management programs. Unfortunately, local governments frequently are deficient in the financial and technical resources necessary to determine consistency with the requirements of their plans. Furthermore, it is often difficult for local governments to focus on the national interest given the nature of the developmental, environmental and local pressures to which they are subject. As a result, they may be unable to participate effectively in mandated coastal planning consistency processes without outside assistance.

At one point in the evolution of its consistency regulations, LCDC, the Oregon Land Conservation and Development Commission, was considering encouraging local government participation by use of a "negative presumption," i.e., if a local government failed to respond to a request for determination of concurrence with a certificate of consistency, it would be presumed that the proposed development was inconsistent with the local comprehensive plan and therefore the CZMP. LCDC abandoned this "negative presumption concept", but the problem still remains of assuring adequate local participation in consistency review.

2. Measuring Effectiveness

Federal and state executive departments should develop mechanisms for evaluating the effectiveness and efficiency of the energy planning and regulatory process, including provisions for meetings with key participants in the process, monitoring the amount and kind of resources required and developing useful evaluative instruments.

One of the continuing problems which has been observed in the planning and regulation of environmental quality and energy facility siting is the lack of administrative oversight at the federal and state levels. In some cases, lead energy or coastal planning agencies have principal responsibilities for determining whether an energy facility should be situated in a particular location. However, it is more common that numerous agencies have authority to oversee a complex array of regulations concerning a variety of energy facilities.

Executive department agencies with administrative oversight functions at the federal and state level should be charged with evaluating overall effectiveness and efficiency of these processes. This is important, both in determining how well the system is working as well in evaluating the need for additional or different types of financial and personnel resources. Various approaches to carrying out this evaluation are possible, including the following:

- The key administrative agency, such as the FRC in each federal region, or the planning, budgeting or intergovernmental relations agency at the state level, could sponsor workshops or meetings to bring together the various agencies involved with the energy facility siting process. The process could be discussed, reviewed and evaluated at that time. The key administrative agency also could undertake a continuing monitoring process, either by creating the expediter's role recommended elsewhere in this report or by working with the lead agency responsible for each permit.

- A measurable evaluative mechanism could be developed which examines time, manpower and expense at each principal stage in the planning and regulatory process. Consumption could be compared with the resources projected as necessary to realize energy development, coastal planning and environmental and other objectives.

3. Agency Roles & Responsibilities

a) The Executive Office of the President, the Office of Management and Budget, and the individual Governors should undertake an aggressive program to clarify functions, delineate roles, and allocate responsibilities for agencies involved in energy facility siting. They should publish guidance materials for all public and private parties concerned and implement follow-up training and information dissemination programs for the various participants.

b) The OMB, or a suitable entity in the Executive Office, should establish an interagency committee to evaluate delegated and preemptive roles and responsibilities of federal agencies involved with energy facility siting practices in coastal zone areas and recommend changes or additions to insure clarity, fair allocation of responsibility and a means for resolving interjurisdictional disputes.

Partly because there are so many actors and differing procedures, and also because the process itself is relatively new, there is no clear overriding vision of the requirements of an overall siting process or the roles and responsibilities of individual agencies. While each agency earnestly attempts to achieve what it feels is expected, a natural caution and conservatism inevitably affects its ability to review and approve potentially controversial projects in an expeditious manner.

In the three states studied a general level of confusion and mistrust exists at each level of government about the role and purpose of the other participants in the process. These attitudes obstruct the implementation of needed reform measures such as consolidating public hearings, integrating permit formats, and providing for early identification of critical issues and responsible agencies. Another complicating aspect is the adversary position which most private oil, gas and power firms feel they must assume in order to protect their interests, both during the administrative and legislative phases of permit acquisition as well as the nearly inevitable judicial levels. Following are alternative approaches for resolving these problems:

- Key federal and state management agencies should identify and publish the purpose, role, function, limitations, resources, duties and responsibilities of each agency involved in the site review process. Such a publication should be updated periodically and circulated regularly to all federal, state and local agencies as well as private companies, public interests groups, the media and other interested parties.

- Either the key management agencies referred to above, the lead agency in the energy facility siting process or, if necessary, the legislature, should articulate an understandable and purposeful system of procedures to be followed in the facility siting process. The process should incorporate the various steps required by law as well as the regulations of the involved agencies toward the goal of producing a consolidated set of permit documents.

- The key management agency, or the lead energy agency, should initiate a training program for private and public participants to clarify roles, expose problems, identify responsibilities and develop sensitivity to common problems and the need to develop reasonable solutions.

In an effort to address specific issues, e.g., air quality, land use, energy demand, economic development, etc., Congress and each of the three state legislatures have passed numerous laws which have unfortunately created layers of often overlapping, sometimes conflicting and frequently inconsistent requirements. As it is not likely that this situation will be rectified by the normal legislative/congressional processes of incremental problem solving and decision making, the federal and state executive branches should take the necessary steps to reduce the confusion through improved coordination and management of the planning and regulatory processes so that they are more orderly and purposeful. While direct savings in time and reduction in paper work may not be quantifiable, the benefits to clarifying roles, simplifying the process, and reducing time are clear.

4. RECOMMENDED ACTIONS

This section compares and evaluates the 16 potential actions described in Section 3. Criteria include the probability that the action will resolve identified problems or attain the original objectives of this study, desirability, and feasibility of implementation.

The rationale for selecting the specific recommendations is described as well as a comparative evaluation matrix chart which was developed to facilitate the selection and illustrate the findings. Also included is a discussion of the problems which the actions address and the results which can be expected. Finally, an implementation approach is presented, including a suggested approach for undertaking the actions recommended and a description of the barriers facing implementation.

4.1 RATIONALE FOR RECOMMENDATION

In general, four sets of measurements were employed to aid in the selection of recommended actions. The first is the ability of the action to resolve the problems identified in Section 3:

1. Inadequate information dissemination
2. Weak planning and policy linkages
3. Fragmented and/or overlapping jurisdictions
4. Lack of regulatory coordination
5. Changing laws and regulations
6. Inadequate resources

The second set includes the criteria established at the inception of this study:

- Clarify institutional roles and interagency relationships;

- Simplify policy making, planning, regulatory and review processes;

- Reduce and consolidate duplicatory paper work and repetitive permit applications;

- Consolidate or coordinate time consuming phases of the permit process;

- Improve information flow to and within the private sector as well as among governmental agencies at the federal, state and local level;

- Respond to the concerns about coastal land use planning and energy development shared by developers, elected officials and agency personnel.

The third and fourth sets of criteria were derived from attitudes expressed at the workshop conducted July 13, 1977 in San Francisco. These consist of the following:

- Desirability of the recommendation-will improve the integration of environmental management with the energy facility siting process;
- Feasibility of the recommendation-is politically attainable.

Table 1, a comparative evaluation matrix, identifies potential actions which have the greatest merit in light of the criteria identified above. A scoring system, using a low value of 0 and a high value of 20, indicates the degree to which each action satisfies the criteria. After ranking the actions in degree of importance, the total scores served as the basis for selecting the recommended actions.

4.2 Discussion

This section discusses the summary of ranking (Table 2) produced from the comparative evaluation matrix. There is a distinct gap between the first seven potential actions and the other nine, both in their composite and problem solving scores. These seven actions also were given high marks by the consultants and those attending the July 13, 1978 workshop held in San Francisco. As a group, the actions appear to be most likely to produce beneficial results in terms of the purposes and objectives of this study. From all accounts, therefore, they merit being designated as the principal recommendations. Following is a summary of these recommended actions:

Develop Accurate, Consistent and Complete Data Base

a) Specificity, quality and quantity of data needed for energy facility planning should be sufficient for anticipated federal, state or local decision making and consistent with the needs of the specific project under consideration.

b) Maximum utilization of existing technical data sources is desirable. These include technology and information transfer programs and federal information systems from the Departments of Defense, Agriculture, Energy and others now seldom used for local or state energy facility planning. Where applicable, states should apply for State Science, Engineering and Technology (SSET) program grants available from the National Science Foundation.

c) Interagency memoranda of agreement should specify data requirements, including appropriate methods for collecting, storing and publishing, as well as means to share costs of these activities.

TABLE 1

COMPARATIVE EVALUATION MATRIX

Potential Action	Problems to Resolve							Original Criteria B	Desirable C	Feasible D	Composite Score A+B+C+D	Rank
	1	2	3	4	5	6	Total 1-6 A					
Policy & Planning (P)												
1. Data base	17	8	4	7	5	9	50	13	18	13	94	3
2. Public participation	6	8	1	0	3	5	23	5	16	11	55	16
3. Energy agency input	9	10	6	9	3	4	41	10	17	14	82	8
4. A-95 evaluations	5	11	7	7	6	7	43	10	10	9	72	12
5. Site suitability	7	17	10	7	6	9	56	13	15	7	91	4
6. Land banking	3	14	9	10	4	3	43	11	7	2	63	13
Regulation (R)												
1. Early warning	10	5	13	15	5	9	57	14	18	12	101	2
2. Information/criteria	13	9	14	15	8	6	65	12	16	10	103	1
3. Expediting permits	6	6	15	18	3	5	53	13	14	6	86	7
4. Concurrent reviews	4	4	17	16	4	5	50	15	16	6	87	6
5. Integrating EIS'S	11	5	9	15	3	6	49	13	16	9	87	5
6. Consistancy	6	7	11	10	5	5	44	9	14	6	73	11
7. Delegating fed. auth.	2	3	15	15	3	3	41	12	12	8	73	10
Administration (A)												
1. Adequate resources	2	3	4	4	3	18	34	8	15	3	60	14
2. Effectiveness	2	5	5	6	7	8	33	7	12	4	56	15
3. Agency roles	7	8	11	12	5	5	48	12	14	7	81	9

NOTE: Scoring range used for problems 1 through 6 and Columns B, C, and D falls between 0, the worst, and 20, the best.

TABLE 2

SUMMARY OF RANKING

Rank	Problem Solving Score Column A	Composite Score Columns A+B+C+D	Potential Action
1	65	103	R2-Information/criteria
2	57	101	R1-Early warning
3	50	94	P1-Data base
4	56	91	P5-Site suitability
5	49	87	R5-Integrating EIS'S
6	50	87	R4-Concurrent reviews
7	53	86	R3-Expediting permits
8	41	82	P3-Energy agency input
9	48	81	A3-Agency roles
10	41	73	R7-Delegating Federal Authority
11	44	73	R6-Consistancy
12	43	72	P4-A-95 Evaluations
13	43	63	P6-Land banking
14	34	60	A1-Adequate resources
15	33	56	A2-Effectiveness
16	23	55	P2-Public participation

Institute Site Suitability Planning

a) OCZM should encourage active site suitability planning, rather than development of only a planning "process", as part of a state's responses to the 1976 CZMA amendments.

b) Specific time intervals, conditions and other procedures for updating energy facility siting should be initiated to insure a stable basis to support the permit process.

Develop Early Warning Systems for Critical Issues

Each state should develop an appropriate pre-application process, involving local, state and federal agencies, to determine permit and information criteria, lead agency responsibilities, and critical, substantive issues.

Disseminate Project Information and Permit Criteria

a) The Governors of the three states and key agency heads should direct all agencies involved with energy facility siting in the coastal zone to improve methods for sharing information concerning a specific permit, including preparation and circulation of a fact book and information packet.

b) Local, state and federal agencies should:

- establish generally applicable, detailed criteria for needed information and permit approval;
- agree to means of adapting and applying generalized requirements to specific project proposals;
- provide a coordinated process for action on an application, including specific time limits and allowance for feedback concerning adequacy, need for more information, etc.
- make decisions in a timely manner following acceptance of an application, while allowing for extensions made necessary by significant changes in project scope or design during the review process.

c) The EPA regional offices, the Federal Regional Councils, or some other suitable state or multi-state entity should take the initiative to form a professional association of environmental coordinators from government and industry to encourage the exchange of ideas, information and techniques regarding environmental impact analysis methodology, project review procedures, and permit processing criteria.

Expedite Permits Through a Facilitator

a) The Governors and the lead agencies in each of the three states, as well as appropriate federal agencies, should establish the position of permit expediter, whose function will be to manage, coordinate, and facilitate review, evaluation and permit of major energy facilities in the coastal zone.

b) In each state an appropriate lead agency should be empowered to adopt, jointly with the federal lead agency, a set of legally enforceable time limits governing all stages of each energy facility permit proposal, taking into account the unique features of the project.

Conduct Concurrent Reviews

Consistent with sound public policies, each state should implement mechanisms for assuring a maximum level of simultaneous permit processing by all governmental agencies.

Integrate Environmental Impact Statements

a) Joint state/federal environmental impact statements should be prepared for projects which cause substantially similar impacts or concern to both levels of government.

b) Federal agencies should become more active participants in state environmental assessment processes than they are now . EPA should make every effort to participate in the EIS/EIR process.

c) The impact assessment process should be integrated into the regulatory system by means of the nine step system described in this report.

d) Both headquarters and regional offices of EPA should take the lead in organizing workshops and task forces to help meet new CEQ rules requiring all federal agencies to revise their EIS procedures; the goal should be to achieve maximum uniformity of impact statements and reduce federal barriers to intergovernmental cooperation.

e) In accordance with new CEQ regulations, all federal EIS activities should be consolidated with state and local actions, using the California and Washington environmental quality acts as models.

f) State coastal plans should be amended to require that EIS's or EIR's be submitted to the state coastal planning agency as part of the required information before the six month consistency determination period begins; OCS consistency regulations and state consistency procedures should specify the role of the EIS in the consistency determination process.

g) Oregon should encourage federal agencies issuing permits subject to consistency determinations to prepare EIS's; it also should require, as part of its data and information base, preparation of either a draft environmental impact statement or an environmental assessment in connection with a negative declaration.

For purposes of discussion and ease of reference, these recommended actions are listed in Table 3, indicating the scores assigned in the categories of problem solving, original criteria satisfaction, desirability and feasibility.

Following is a discussion of how each recommendation meets the criteria previously established:

Develop Accurate and Complete Data Base

This action received the highest total score of all potential policymaking and planning actions. If implemented, it will be a significant step toward resolving the problems of inadequate information dissemination and thus strengthen the policymaking and planning process. The action also can help utilize existing resources more effectively. It is rated as both very desirable and highly feasible, indicating that it probably can be implemented with some ease, technically as well as politically.

Institute Site Suitability Planning

The most signficant problem this action will resolve concerns weak planning and policy linkages. Site suitability evaluations made in advance of requests for approval of specific projects, strengthen planning as a tool in policy formation. The action is ranked reasonably desirable but at the lower end of feasibility among the seven recommendations. Opponents of this action believe that the proper initial determination of site suitability should be done by private companies which are better acquainted with their requirements for a specific location, and also that these choices should not be limited beforehand by public agencies. Despite the controversial nature of this recommendation, it is significant enough to be included in this report.

TABLE 3

SUMMARY OF SCORES FOR RECOMMENDED ACTIONS

Recommended Actions	Problems to Resolve						Original Criteria	Desirable	Feasible
	1	2	3	4	5	6			
- Develop accurate, consistant complete data base	17	8	4	7	5	9	13	18	13
- Institute site suitability planning	7	17	10	7	6	9	13	15	7
- Develop early warning systems for critical issues	10	5	13	15	5	9	14	18	12
- Disseminate project information & permit criteria	13	9	14	15	8	6	12	16	10
- Expedite permits through a facilator	6	6	15	18	3	5	13	14	6
- Conduct concurrent reviews	4	4	17	16	4	5	15	16	6
- Integrate environmental impact statements	11	5	9	15	3	6	13	16	9

Notes: -scoring range falls between 0, the worst, and 20, the best

-Problems to resolve:

1. Inadequate information dissemination
2. Weak planning and policy linkages
3. Fragmented and/or overlapping jurisdictions
4. Lack of regulatory coordination
5. Changing laws and regulations
6. Inadequate resources

Develop Early Warning Systems

This recommended action can help resolve several problems. It can provide the means to overcome inadequate information dissemination; mitigate fragmented and overlapping jurisdictions; and overcome the lack of regulatory coordination. It scored very high as an approach which satisfies the original study criteria as well as for its desirablity and feasibility, and was most often mentioned by those interviewed as well as those attending the workshops. While there may be technical problems in implementation, particularly in overcoming interagency communications and coordinating difficulties, it is politically popular.

Disseminate Project Information and Permit Criteria

This recommended action received the highest composite score as well as the highest individual score for its aid in problem solving. Specific problems which it can be expected to resolve are those of inadequate information dissemination; fragmented and overlapping jurisdictions; and lack of regulatory coordination. Even though the action is considered highly desirable, some implementation problems could arise, such as securing proprietary information and overcoming interagency communication difficulties; concerted efforts by federal and state officials is necessary to initiate the required actions.

Expedite Permits

This action can be expected to resolve the problems of fragmented and overlapping jurisdictions as well as lack of regulatory coordination. Although it is considered desirable, it was ranked relatively low among the top seven actions regarding its feasibility. The concept of permit expediters/facilitators within federal and state agencies is relatively new and will require considerable discussion, education and training before it can be accepted. Public controversy over the role of government as a permit expediter for private petitioners may be expected.

Conduct Concurrent Reviews

This action scored very high for its ability to resolve the problem of fragmented and overlapping jurisdictions and can be expected to have a reasonably good effect upon overcoming the lack of regulatory coordination. It also received the highest score of all actions in satisfying the original criteria of the study. While it is considered desirable, it is another action which ranked relatively low regarding feasibility, indicating that implementation problems may arise particularly in securing agreement among several agencies to a common time schedule.

Integrate Environmental Impact Statements

This action should help overcome some of the problems of inadequate information dissemination as well as in mitigate the lack of regulatory coordination. While it was not given a high priority by many, it was ranked as one of the most desirable. It is a timely recommendation, as much discussion both in government and elsewhere, is taking place at the present time regarding the most effective application of environmental impact statements as well as the most useful way to prepare them.

4.3 IMPLEMENTING THE RECOMMENDATIONS

Responsibility for implementing the recommended actions and other suggestions contained in this report should be shared by the Office of Transportation and Land Use Policy and the office of Planning and Management, both at EPA. This must be a coordinated effort with other affected federal and state agencies committed to cooperate and assist when ever feasible. Participation by private industry and public interest groups also is necessary.

A suggested approach to implementation is outlined below:

1. EPA should distribute this report to the approximately 200 people who, during the course of this study, have been interviewed, attended workshops, contributed information or expressed an interest in the work and its results. In addition, the report should be circulated to others known to be interested in the process of energy facility siting in the coastal zones of the country.

2. Workshops for the purpose of discussing the report and developing implementation strategies should be held at convenient locations on the west coast. To encourage transferability of the recommendations to other parts of the nation, meetings may also be considered for other coastal zones - the Gulf coast, Atlantic seaboard and the Great Lakes region.

3. To test the study recommendations, a demonstration project should be developed, preferably on the west coast. Such an undertaking can be carried out best under the sponsorship of EPA, U.S. Department of Energy and the Office of Coastal Zone Managment. The cooperative involvement of affected Governors and other agencies should be solicited. The demonstration study effort should be followed by a thorough evaluation of the observed results, reexamination of these study recommendations and publication of a revision or update of this report with new findings, if necessary.

4. Implementating these study recommendations and undertaking of a demonstration test effort and evaluation should be given a high priority by the Executive Office of the President and the Office of Management and Budget.

During the course of this work additional research opportunities became evident. These are presented as suggestions to EPA for further consideration.

1. Because of the shortage of time and budget, the State of Alaska was not included in this study of the west coast states which focused entirely upon California, Oregon and Washington. Alaska is especially important, not only as a substantial geographical area of the west coast, but also because of its immense coastline and energy resources. Consideration should be given to a special study of that state to complete the survey of the west.

2. Again, because of the limitation of time and budget, this study did not include any consideration of nuclear energy. A study should be undertaken, similar to the one presented here, to find ways to simplify and improve the process of siting nuclear energy facilities, either in the west coast states or elsewhere. The many, and oftentimes controversial, aspects of this subject, including thermal power plant production of electricity, transportation and storage of waste materials and other related issues should be addressed.

3. A methodology and evaluative approach similiar to this study should be considered for other coastal areas of the country.

5. APPENDIX

5.1 LIST OF INTERVIEWEES

Date	Agency
November 9, 1977 -	California Air Resources Board
	Dan Lieberman, Chief, Air Quality Maintenance & Planning Terry McGuire, Asst. Chief, Stationary Source Control Dev.
November 10, 1977-	California State Water Resources Control Board
	Jan Stofkopen, 208 Coordinator for Southern California
November 10, 1977-	San Francisco Bay Conservation & Development Commission (BCDC)
	Jeff Blanchfield, Senior Planner
November 11, 1977-	California Office of Planning & Research
	David Calef, Coastal Planning Coordinator Richard Grix, OSC Monitoring Carla Walecka, CEIP Monitoring
November 11, 1977-	Association of Bay Area Governments (ABAG)
	Chuck Forester, Director of Plan Implementation
November 11, 1977-	California Energy Resources Conservation & Development Commission (CERCDC)
	Carol Brow, CERCDC's Planning & Assessment Division Roger Fontes, CERCDC's Planning & Assessment Division
November 12, 1977-	EPA Region IX
	Al Abramson, Branch Chief, California Water Programs Al Davis, Chief, Air Program Branch Tom Jones, Energy Coordinator Phil Wondra, Section Chief, California Air Quality Planning
November 12, 1977-	Institute of Urban & Regional Development University of California-Berkeley
	Randele Kanouse, ERDA principal investigator
November 14, 1977-	California Coastal Commission
	Bill Ahern, Energy Coordinator

November 17, 1977- Region X FRC

Craig Chase, Department of Energy
Bob Meredith, Department of Commerce

November 18, 1977- Washington EFSEC

Bill Fitch, Executive Secretary
George Hanson, Department of Energy Representative
Nick Lewis, Chairman

November 18, 1977- Washington State Department of Energy

Chuck Cavelli, Water Quality Planning
Victor Felton, Air Programs
Ron Pine, Water Quality Management
Emily Ray, CZM Program & State/Federal Coordinator

November 23, 1977- Oregon Department of Land Conservation and Development

John Christensen, Staff Member
Neil Coenen, contact for coastal work
Wes Kvarsten, Director
Jim Ross, Deputy Director

November 23, 1977- Oregon State Department of Energy

Don Godard, staff member responsible for siting activities
Dr. Fred Miller, Director
David Philbrick, environmental specialist responsible for coastal matters
W. Kelly Woods, energy facility siting coordinator

List of interviewees does not include those interviewed for case studies 1 through 6. Information about these interviews is included in Section 5.4.

5.2 LIST OF WORKSHOP PARTICIPANTS

Decision Makers Workshop -- March 13, 1978
Jack Tar Hotel - San Francisco, California

William Ahern	California Coastal Commission
Jeffrey Blanchfield	San Francisco Bay Conservation & Development
David Calkins	EPA Region IX
Craig L. Chase	Dept. of Energy, Region X (Seattle)
Jon Christenson	DLCD, Salem, Oregon
Mari Collins	California Coastal Commission
Grant deHart	OCZM
Rob Ireson	University of California Berkeley (Operations Research)
Thomas Jones	EPA San Francisco
Randele Kanouse	U.C. Berkeley
Ronald W. Kukulka	California Air Resources Board
David Morell	Princeton University
Clare A. Poe	California Energy Commission
Becky Ransom	Corps of Engineers, North Pacific Division
Harry Seroydarian	EPA Region IX
Grace L. Singer	Princeton University
Dan Steinborn	EPA, Region X
David W. Stevens	National Governors' Association
Glenn Totten	Environment Reporter
Fred Weinmann	Corps of Engineers, Seattle District
Kelly Woods	Oregon Department of Energy

Washington State Workshop -- April 18-19, 1978
Tyee Motor Inn -Olympia, Washington

Mary Anderson	State Energy Office, Olympia
Pat Dugan	Grays Harbor Planning Commission, Aberdeen
Curtis Eschels	Senate Energy, Olympia
Bill Fitch	Energy Facility Site Evaluation Council Olympia
Rick Hall	Dept. of Ecology, Olympia
Mike Hambrock	Dept. of Ecology, Olympia
George H. Hansen	Energy Facility Site Evaluation, Olympia
Vern Huser	Univ. of Wash., Office of Environmental Mediation, Seattle
Nicholas Lewis	Energy Facility Site Evaluation Council, Olympia
Jim Maricle	Mobil, Ferndale
Donald Munro	Bonneville Power Administration, Portland
Leah Petten	Univ. of Wash., Office of Environmental Mediation, Seattle
Dan Steinborn	U.S. EPA, Seattle
Ted Van Decat	Puget Power, Bellevue
Rex Van Wormer	U.S. Fish & Wildlife, Olympia

Oregon State Workshop -- April 26-27, 1978
Holiday Inn - Salem, Oregon

Eleanor Adelman	Montagne-Bierly Associates, Salem
Thomas M. Ashton	Pacific Power, Portland
Jon Christenson	Dept. Land Conservation Dev., Salem
Paul Haugland	State Permit Center, Salem
Hilary Heizenrader	Portland General Electric, Portland
Ed Holt	Mathematics Sciences N.W. Inc., Bellevue, Washington
Kathi Larson	U.S. Fish & Wildlife Service, Portland
Dennie Maxwell	Bonneville Power Administration, Portland
Robert Moulton	Corps of Engineers, Portland
David Stevens	National Governors Assoc., Olympia, Wa.
Leonard Wilkerson	Division of State Lands, Salem
Kelly Woods	Oregon Dept. of Energy, Salem

California State Workshop -- May 5-6, 1978
Holiday Inn-North - Sacramento, California

Devon Bates	California Coastal Commission, San Francisco
Ercole Caroselli	Pacific Gas & Electric, San Francisco
Betty Jankus	EPA IX, San Francisco
Randy Kanouse	University of California Berkeley
Albert N. Kidd	Exxon Co., USA, Los Angeles
Mike Leary	Chevron, USA, San Francisco
Clare A. Poe	California Energy Commission, Sacramento
Alan Scarsella	San Diego Gas & Electric, San Diego

Implementation Workshop -- July 13, 1978
Sir Francis Drake Hotel - San Francisco, California

Gene A. Blanc	Pacific Gas & Electric, San Francisco
William C. Carson	Kaiser Steel Corp, Oakland
John Crawford	U.S. Dept. of Energy, San Francisco
Dave DeBruyn	EPA, Region X, Seattle
Maeton Freel	U.S. Fish & Wildlife Service
Craig Holland	Corps of Engineers, Los Angeles
Randy Kanouse	University of California Berkeley
Larry Klapow	California Water Resources Control Board
Ed Kreppert	U. S. Geological Survey, Los Angeles
Ed Landry	San Diego Gas & Electric, San Diego
Dan Lieberman	California Air Resources Board, Sacramento
Larry D. Mann	U. S. Dept. of Energy, Seattle
Gary D. Midkiff	California Governor's Office of Planning & Research, Sacramento
William E. Mulcany	Department of Energy, San Francisco
Gerald R. Mylroie	Coastal Energy Impact Program, Office of Coastal Zone Management, Washington,D.C.
Clare A. Poe	California Energy Commission, Sacramento

Implementation Workshop -- July 13, 1978 - continued

Paul Portch	U.S. Corps of Engineers, San Francisco
Alan Scarsella	San Diego Gas & Electric
Kevin Smith	California Coastal Commission, San Francisco
T. J. Tibbitts	Exxon Co. USA, Los Angeles
William Travis	California Coastal Commission, San Francisco
Ted VanDecar	Puget Power, Bellevue, Wa.
Randy .Wu	California Public Utilities Commission, San Francisco
Don Zieglar	Chevron USA, San Francisco
Stan Zwicker	Union Oil Co., Los Angeles

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5.4 CASE STUDIES

Case Study No. 1 - OCS Oil & Gas Development
EXXON Santa Ynez Unit, Santa Barbara

Case Study No. 2 - SOHIO Petroleum Terminal
Long Beach, California

Case Study No. 3 - Kaiser Steel Corporation Fabrication Yards for Offshore Oil Well Drilling Platforms: Ports of Everett and Grays Harbor

Case Study No. 4 - A Proposal to Construct and Operate a Fabrications Yard to Assemble Offshore Oil Platforms at Warrenton, Oregon

Case Study No. 5 - A Proposal to Provide a Common Carrier Transportation System for Receiving Crude Oil by Tanker at Port Angeles, Washington and Transporting it to Inland Markets

Case Study No. 6 - Liquified Natural Gas Peaking Plant
Newport, Oregon

EPA Case Study No. 1
March 2, 1978, Revised 8/1/78
By Glen Odell
Seton, Johnson & Odell

OCS OIL & GAS DEVELOPMENT

EXXON SANTA YNEZ UNIT
SANTA BARBARA

Description of Proposed Development

The Santa Ynez Unit is a group of 17 federal leases at the western end of the Santa Barbara Channel between Pt. Conception and Capitan. It has been estimated that its recoverable petroleum reserves may constitute as much as 40 to 65% of the remaining recoverable petroleum in the Santa Barbara Channel.

Exxon Company, USA is the designated unit operator, having purchased the leases in 1968. Production is scheduled to begin in late 1978 and at full development is reported by Exxon to be capable of levels as high as about 80,000 BPD of oil and 77 MCF/D of gas. Three to five platforms and subsea production systems may eventually be installed with a production lifetime estimated at about 40 years, depending upon continued resource availability.

In its development plan which was filed with the Department of Interior (DOI) in 1971, Exxon proposed to construct its first platform, "Hondo", about five miles offshore. Oil and gas would be transported from the platform in separate subsea pipelines across state-owned submerged lands to a separation and treatment plant located 1.5 miles inland on a 15-acre site in Las Flores Canyon, about 20 miles west of Santa Barbara. From the treatment facility, gas would be fed into existing commercial gas lines and oil would be returned by another subsea pipeline back through the coastal zone to a tanker terminal 3700 feet offshore in state waters.

Because of anticipated difficulty in securing state approvals for the treatment plant, three pipelines and tanker terminal, Exxon's development plan provided for an alternative proposal designated the "offshore alternative," which would locate the treatment facility on a vessel moored 3.4 miles offshore. Oil thus would be produced, processed and stored entirely in the federal waters. Under this plan, gas would be reinjected into the reservoir until approvals could be obtained for construction of a gas pipeline to shore and onshore gas processing facilities. A specially designed shuttle tanker would transport the processed crude oil from the offshore storage and treatment (OS&T) vessel to refineries or other markets on the west coast.

In the process of public review of the Exxon proposals a third alternative was developed which has become central to the controversy. This scheme, proposed by intervenors and conditionally endorsed by the California Coastal Commission over Exxon's protests, maintains the subsea pipelines to the Las Flores Canyon processing plant, but substitutes a 140-mile long onshore pipeline between Las Flores Canyon and Los Angeles for the marine loading line, offshore terminal and tanker transport. The onshore pipeline would serve as a common carrier pipeline to transport the crude production of other companies in the Santa Barbara Channel to Los Angeles refineries. Figure 1 shows the project location and schematically depicts the three alternatives.

Principal Issues and Actors

Although the Santa Ynez controversy involves a variety of environmental, technical, economic and legal issues, the central dispute is the choice between an onshore pipeline or a marine terminal-tanker system for moving the crude oil to refineries. Exxon and state and local agencies have been unable to negotiate a settlement to this dispute. In 1976 Exxon began implementation of its offshore alternative amidst an array of lawsuits filed by parties on both sides. In early 1978, primary attention was being focused on current and potential litigation, including new issues related to jurisdiction over air emissions and water discharge pollution in offshore water.

Table I identifies the major issues and the general roles or positions of the principal agencies relative to each issue. Several of them warrant additional explanation.

The State Coastal Commission and other agencies which have advocated an onshore pipeline do so primarily on the grounds that the existence of such a common carrier facility would minimize overall environmental impacts of offshore oil development in the South Barbara Channel. Included among the environmental benefits of the pipeline cited by proponents are

1) Consolidation and reduction in number of treatment facilities and storage tanks; and

2) Reduction or elimination of offshore marine terminals and tanker traffic, with attendant reduction in air emissions and oil spill hazards.

Table I

ISSUES AND ACTORS

Issue	Agency*	Role/Position
1. Development of energy resource	DOI	Prepared EIS; approved plans for 40,000 BPD production for onshore or offshore alternatives.
	Exxon	Claims investment of $500 million in Santa Barbara Channel leases and development of Santa Ynez Unit.
2. Choice among onshore treatment vs. offshore alternative vs. onshore treatment and onshore pipeline	Exxon	Doubted economic feasibility of onshore pipeline. Could not accept Coastal Permit conditions related to it; pursued offshore alternative.
	DOI	Generally supported Exxon's position through 1976; in 1977 expressed appreciation of state position but declined to revoke approval of development plan
	South Central Regional Coastal Commission	Issued coastal permits for onshore facilities, associated subsea pipelines, and marine terminal
	CCC	Revised Regional Commission permit; required onshore pipeline to be studied and implemented if found feasible by public agencies as condition of coastal permit.
	OPR	Provided further study and information on Santa Ynez controversy; concurred with Coastal Commission permit conditions.
	SBC/ OEQ	Prepared CEQA EIR for onshore treatment facility; supported onshore pipeline proposal; established Pipeline Working Group to study its feasibility.

Table I (cont.)

ISSUES AND ACTORS

Issue	Agency*	Role/Position
	Coast Guard	Must certify OS&T as a vessel
3. Coastal zone management	CCC	Must issue permit for facilities in Coastal zone; position described above.
4. Air quality	EPA	Would have required new source permit for onshore facility; now claiming jurisdiction for new source review of offshore storage and treatment vessel (OS&T).
	ARB	Claiming state implementation plan applies to OS&T
	SBC APCD	Clear jurisdiction over onshore facilities; claiming authority for new source review of OS&T.
	Exxon	Claims OS&T is outside jurisdiction of EPA.
5. Water Quality	Regional WQCB	Would have required permit for subsurface water injection from onshore facilities.
	EPA	Issued NPDES permit for Platform Hondo; claims authority to 'require' NPDES permit for OS&T.
	Exxon	Filed NPDES permit application under protest that OS&T is a vessel and therefore is exempt from NPDES permit requirements.

*DOI = Department of Interior
CCC = California Coastal Commission
OPR = Office of Planning & Research
SBC/OEQ = Santa Barbara County Office of Environmental Quality
ARB = Air Resources Board
EPA = Environmental Protection Agency
SBC APCD = Santa Barbara County Air Pollution Control District

Project Chronology

The Santa Ynez project began with the lease sale in 1968 and continues to the present day. The principal events are described below.

Feb. 6, 1968:	Exxon Company, USA purchased interests in 16 of 17 leases which are now part of the Ynez Unit from BLM for $94 million.
Jan. 28, 1969:	Major blowout and resulting oil spillage from Union Oil's Platform A aroused citizens in Santa Barbara County and the state of California on the issue of the environmental hazards of OCS oil development.
April 4, 1969:	Santa Barbara County used DOI to prevent implementation of the OCS Lands Act.
May 1, 1969:	Exxon obtained injunction preventing Santa Barbara County from interfering in OCS drilling.
Nov. 12, 1970:	Unitization of Santa Ynez leases, with Exxon as the unit operator, was approved by USGS.
Nov. 11, 1971:	Exxon filed with DOI a proposed supplemental plan of operations for the first platform, subsea pipelines to onshore processing plant, and subsea pipeline back to marine terminal; plan included offshore alternative locating all facilities on a vessel moored in federal waters with gas initially to be reinjected into the reservoir.
Sept. 11, 1972:	Santa Barbara County suit against DOI over OCS Lands Act dismissed.
July 23, 1973:	Department of Interior published for comment a draft EIS on the Santa Ynez Unit development plan.
Oct. 2-4, 1973:	Public hearings on DEIS held in Santa Barbara.
Nov. 16, 1973:	EPA submitted comments and "ER-1" rating on EIS: adequate with reservations.
Jan. 28, 1974:	Exxon applied for rezoning of Las Flores Canyon site to Santa Barbara County.

March 27, 1974:	Exxon applied for Corps of Engineers permit to construct offshore platform.
May 3, 1974:	Interior published Final EIS on Santa Ynez development plan.
July 12, 1974:	Santa Barbara County published Draft EIR on rezoning of Las Flores Canyon site.
Aug. 7, 1974:	Exxon applied to Federal Power Commission (FPC) for Certificate of Public Convenience and Necessity for the subsea gas pipeline.
Aug. 16, 1974:	DOI approved Exxon's supplemental plan of operations, including the offshore alternative, on the condition that Exxon make "diligent, good faith efforts to obtain permission from the appropriate state agencies to construct and operate the onshore facility under reasonable terms and conditions."
Oct. 31, 1974:	County Office of Environmental Quality certified DEIR as complete and transmitted to planning commission after three public hearings.
Dec. 11, 1974:	Corps of Engineers issued permit for offshore platform.
Dec. 18, 1974:	After four public hearings, county planning commission approved zone change, subject to 72 conditions.
Dec. 19, 1974:	State Lands Commission awarded Exxon a lease for its proposed marine terminal and subsea pipelines in state waters. State controller-elect Kenneth Cory filed a lawsuit the same day seeking to invalidate the SLC decision.
Dec. 31, 1974:	FPC issued DEIS for subsea gas pipeline.
Feb. 10, 1975:	After three public hearings, Santa Barbara County Board of Supervisors by a 3-2 vote, approved the rezoning ordinance and conditional use permits for the Las Flores Canyon treatment facility.
May 27, 1975:	A local referendum narrowly upheld the rezoning ordinance for the treatment facility.
June 4, 1975:	Exxon applied to South Central Regional Coastal Commission for coastal development permit.

June 6, 1975:	A group of Santa Barbara residents sued to prevent certification of results of referendum election.
June 9, 1975:	Suit attempting to deny referendum certification was dismissed; another suit by citizens group, Get Oil Out! (GOO), was filed, seeking revocation of various approvals of DOI and Corps of Engineers.
June, 1975:	DOI published a Draft EIS for the overall development of OCS resources in the Santa Barbara Channel.
July 29, 1975:	Exxon submitted precise plans for Las Flores Canyon facility to county planning commission.
Aug. 23, 1975:	Federal District Court found GOO suit in Exxon's favor; appeal filed, argued and decision is pending.
Sept. 11, 1975:	A group of Santa Barbara residents headed by county supervisor, James Slater, appealed coastal permit decision of regional commission to state commission, claiming it to be inconsistent with Coastal Act of 1972 and proposing onshore pipeline for crude oil as an alternative to the marine terminal and associated tanker activity.
Oct. 1975- Feb. 1976:	Lengthy negotiations between Exxon and state Coastal Commission staff over issue of onshore crude oil pipeline.
Nov. 12, 1975:	Planning commission approved precise plan for Las Flores Canyon after two public hearings.
Dec. 27, 1975:	County board of supervisors approved precise plan after one hearing.
March 3, 1976:	Coastal commission rejected Exxon's plan and approved permit for interim use of a marine terminal for five years; at end of that time, decision is to be made by the commission concerning whether its use is to be extended or whether Exxon will be required to develop an onshore crude oil pipeline. Exxon had never agreed to these conditions in preceding negotiations. Concurrently, DOI confirmed its approval of the offshore alternative as a contingency plan.

March 4, 1976: DOI published a Final EIS on channel-wide OCS activities confirming findings that consolidation of onshore and offshore facilities and use of onshore pipelines rather than marine terminals and tankers, was desired OCS development approach in Santa Barbara Channel.

March 12, 1976: Exxon sued in federal and state courts to overturn Coastal Commission permit conditions.

April 30, 1976: DOI published a technical economic report on alternatives for transport, storage and treatment of oil from the Santa Ynez Unit, ranking the marine terminal as preferable to the offshore alternative, which in turn, was concluded to be preferable to the onshore facilities and pipeline.

June 22, 1976: Exxon applied for NPDES permit for water discharges from Platform "Hondo".

June 23, 1976: Jacket set for platform "Hondo" in Santa Barbara Channel.

July 21, 1976: DOI reaffirmed its decision to approve offshore alternative, finding that the Coastal Commission's permit conditions were unreasonable based upon DOI's April 30 technical analysis.

Aug. 26, 1976: State Office of Planning and Research objected by letter to DOI's July 21 conclusions and decisions.

Sept. 3, 1976: EPA notified Exxon that air permit may be needed for OS&T and demanded emission data.

Oct. 1, 1976: Attorney for Exxon submitted to EPA emission data together with legal analysis in support of claim that EPA has no jurisdiction over air emissions in OCS.

Oct. 6, 1976: EPA advised Exxon that NPDES permit was required for OS&T.

Nov. 8, 1976: Exxon filed NPDES permit application under protest that EPA had no jurisdiction over OS&T as it is a vessel under Coast Guard jurisdiction.

Nov. 10, 1976:	Attorney General and CCC filed suit in federal suit to prevent implementation of the offshore alternative.
Jan., 1977:	State of California and County of Santa Barbara requested DOI to withdraw its approval of offshore alternative.
Jan., 14, 1977:	EPA issued NPDES permit for Platform "Hondo".
Jan. 31, 1977:	At initiative of Santa Barbara County, Joint Industry Government Pipeline Working Group formally organized to conduct detailed technical feasibility studies of a proposed onshore crude oil pipeline from Santa Barbara County to Los Angeles area refineries. Meetings have continued to present time.
May 5, 1977:	Governor Brown transmitted to DOI Secretary Andrus suggested revised coastal permit conditions, including (1) provision for a Pipeline Arbitration Committee to determine the feasibility of the onshore oil pipeline; and (2) air quality limitations which would have restricted initial production to 20,000 BPD compared with 40,000 BPD permitted by DOI and the planned capacity of the onshore facility.
May 13, 1977:	EPA issued draft NPDES permit containing conditions relative to air contaminant emissions.
June 1, 1977:	Exxon submitted to DOI comments on proposed coastal permit conditions, terming them "more onerous" than the original.
June 30, 1977:	EPA set NPDES hearing for August 9.
July 14, 1977:	State requested EPA to set back NPDES hearing date.
Aug. 9, 1977:	Federal Court denied state motion for preliminary injunction to enjoin use of OS&T.
Aug. 29, 1977:	DOI Secretary Andrus informed Governor Brown of decision not to withdraw approval of OS&T, but committing to thorough review of issues in event Exxon applied for DOI permit to produce more than 40,000 BPD in Santa Ynez Unit.
Sept. 15, 1977:	Drilling for first production well began on "Hondo" platform.

Sept. 23, 1977: EPA confirmed to Exxon its intent to require New Source Review (NSR) permit for OS&T, and transmitted its technical analysis of the air quality impacts of the facility.

Oct. 4, 1977: EPA hearing on NPDES permit, at which EPA announced its intent to separate air and water permits but withhold NPDES permit until the air permit was issued.

Nov. 15, 1977: EPA transmitted NSR application requirements to Exxon.

Dec. 13, 1977: Attorney for Exxon requested EPA to withdraw its determination that OS&T is subject to NSR review, providing additional legal analysis in support of Exxon's position.

Feb. 13, 1978: EPA issued NPDES permit without conditions relating to air

Feb. 15, 1978: Exxon took legal action against EPA to resolve jurisdictional issues regarding air quality permits for OS&T.

Analysis

By the time Platform Hondo yields its first commercial barrel of oil in late 1978, almost 11 years will have passed since Exxon paid $94,000,000 for its leases in the Santa Ynez Unit. It is not necessary to take a position for or against the proposed development in order to question a process which takes such a long time to be concluded.

Yet, to focus only on the time-consuming aspect of the process would be to ignore its historical context, a decade of rapid and profound changes in the national, state and local approach to energy and environment, marked by the following major events:

January 1969: The Union Oil Platform A blowout dramatized the potential environmental risk of OCS oil developments.

1969: Adoption of National Environmental Policy Act.

December 1970: Adoption of the Federal Clean Air Act Amendments of 1970 set in motion broad and increasingly more powerful and sophisticated governmental controls over air pollution sources.

1972: Passage of the Federal Water Pollution Control Amendments

November 1972: Approval by California voters of Proposition 20 establishing the Coastal Commission.

These events, plus others over which Exxon and the individual public agencies with which it was dealing had little or no control, resulted in a fluid, somewhat unpredictable regulatory environment.

Specific observations which may be useful in identifying problems and possible solutions follow:

1. Permit Process Uncoordinated

   After three years of review by DOI, Exxon's development plan was approved. The local review process for onshore facilities followed, taking approximately one year until approvals were obtained. Only after these were obtained was Exxon able to apply for the coastal permit. These proceedings took nine months before a conclusion was reached; it was unacceptable to Exxon, which then implemented the offshore alternative. Next were the environmental review procedures of EPA, which are continuing to the present.

   As long as the process provides for serial reviews and permits, it is unrealistic to expect that agencies with responsibilities for action in later stages will give full attention to, or be bound by their input to, the earlier stages of review. Although the EIR/EIS review process ostensibly gives each responsible agency the right and obligation to conduct a thorough review of a proposed action, history in this and other cases shows that full attention is focused only when it is required to issue or deny a permit of its own.

2. Major Controversies over Control of Outer Continental Shelf

   Through review of pertinent literature and personal interviews necessary for the present study, it is apparent that state and local government in California are determined to gain more control over OCS development, now almost totally the authority of the Department of the Interior. Although the Santa Ynez Unit is the current battleground for intergovernmental conflict, the final outcome is most likely to be decided in the OCS Lands Act Amendments presently in a conference committee of the U. S. Congress.

   Related to the conflict is the apparent ambiguity of environmental jurisdiction in the OCS. Barring resolution in the OCS amendments, it appears that only extensive litigation will sort out the roles of EPA, DOI and the Coast Guard in regulating air and water pollution in the OCS.

Woven through both issues is the question of whether state implementation plans are applicable to the OCS, thereby giving state and local air quality agencies permitting authority over OCS facilities.

3. Three Separate Comprehensive Environmental Impact Studies Conducted

In spite of these largely duplicatory efforts by DOI, FPC and Santa Barbara County, consensus on impacts and policies was not developed; neither was all necessary information compiled. For example, none of these documents touched significantly upon the emissions or impacts of hydrocarbons from processing plant or tankers.

4. Mechanisms for Determining Technical Facts Incomplete

Government's propensity for comprehensive planning led it to attempt to base its decisions concerning the Exxon's project on an assessment of ultimate development, not only in the Santa Ynez Unit, but throughout the Santa Barbara Channel. The lack of consensus between government and private industry on the extent of the resource base is a continuing source of friction.

Another example of the problem is the question of feasibility of an onshore crude oil pipeline to Los Angeles. Initially addressed in the DOI EIS, the pipeline concept was dismissed, raised again in the county EIR, dropped again, and finally determined in the State Coastal Commission's decision. Only when Santa Barbara County organized the Pipeline Working Group in early 1977 was a mechanism established for eventually developing a consensus on the objective facts of the issue.

A third and current example of this problem is the question of the impact of OS&T hydrocarbon emissions. EPA* asserts that the emissions had an impact upon the south coast area, while Exxon** claims they do not, citing the absence of supporting data other than two studies purported to show that oxidant violations in Santa Barbara are the result of pollutant transport from Los Angeles. Although the issue of EPA's legal jurisdiction in the OCS takes precedence, the absence of a fact-finding mechanism relative to emissions and impacts could by itself obviate the possibility of an orderly air quality review process.

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* EPA, 9/23/77 letter.

** Exxon, 12/13/77 letter.

5. Legal and Political Safeguards Impede Administrative Review Process

No matter how efficient the administrative process may be designed, dissenting parties have many opportunities to delay, disrupt or reverse the outcome. This has been exemplified throughout the Santa Ynez controversy and affects any procedural improvement which may be forthcoming from the present study.

EPA Case Study No. 2
Rev. August 1, 1978
By F. Glen Odell
Seton, Johnson & Odell

SOHIO PETROLEUM TERMINAL
Long Beach, California

Project Description

Sohio Transportation Company, a subsidiary of Standard Oil Company of Ohio, proposes to develop a marine and land transportation system between Valdez, Alaska and Midland, Texas. This would become the primary route for moving Alaskan crude oil to markets in the south central and midwestern United States. The critical link in the system would be a major new tanker terminal located at Long Beach, California, which would receive oil by tanker, store it, and transfer a substantial amount through a pipeline terminating in Midland.

In the course of the review process, some basic design parameters for the project have been significantly changed since the permit applications were first filed in late 1975. This is illustrated in the following table:

	Original Proposal	Present Proposal
Maximum average capacity of system, BPD	700,000	500,000
Number of tanker berths	3	2
Number of 615,000 barrel capacity storage tanks	8	8
Number of tanks located at the Port of Long Beach	6	3

The marine terminal itself is to be located at Pier J in the Port of Long Beach. The tanker berths, designed for vessels as large as 165,000 DWT, will be located at the end of a proposed 2500 ft. trestle extending from filled land area currently used for import automobile facilities. Protected by a breakwater yet to be constructed, the trestle structure could provide space for as many as five tanker berths.

Oil will be discharged from tankers into the dockside storage tanks, then transferred by a new 48-inch Sohio pipeline about 9 miles inland to a storage site known as the Caltrans (Dominguez Hills) located in the City of Carson, where additional tankage will be located. While some oil may be fed into the existing Four Corners Pipeline for transport to local refineries, the majority will be moved to Texas via a combination of a new oil pipeline and converted existing natural gas pipeline. A total of 235 miles of new pipeline construction is required.

Principal Issues and Actors

Air quality has been the dominant focus of controversy surrounding the Sohio proposal. The review process has resulted in the development of major new technical data and new regulatory policies. Other significant issues have included the availability of natural gas supplies for Southern California and the need to retain the existing gas pipeline; the national interest question of the distribution of Alaskan oil; tanker safety and the pollution hazards of potential accidents and spills; and coastal zone management.

Table I summarizes the roles or positions of the principal agencies involved in each of these issues.

Table I
PRINCIPAL ISSUES AND ACTORS

Issue	Agency	Role/Position
1. Air Quality - determining emissions from tanks and tankers; assessment of project responsibility for tankers at sea and electrical power consumed; establishment of tradeoff ratios and acceptable mitigation measures including as much as 100 million	EPA	Requires New Source Review (NSR) permit.
	ARB	Reviewed EIS & EIR; provided technical analyses; under SCAQMD rules, must concur in NSR permit issued by SCAQMD; was vocal in public support of stringent emission tradeoffs.
	SCAQMD	Requires local NSR permit, which has been principal conduit for input by public, ARB and EPA; held 14 public hearings.
	BLM	Assessed air quality impacts in NEPA EIS.
	Port/PUC	Assessed air quality impacts in DEQA EIR.
	So. Cal. Edison	Under a proposal calling for Sohio to fund installation of a stack gas scrubber, its Alamitos power plant is the most discussed emission offset candidate.
	Other Industry	Dry cleaning plants, a glass plant, and a variety of other industries may be involved in Sohio tradeoffs, all requiring complex 3-way negotiations.
	Sohio	Applicant.

Legend

EPA: Environmental Protection Agency
ARB: Air Resources Board
SCAQMD: South Central Air Quality Management District
BLM: Bureau of Land Management
Port: Port of Long Beach
PUC: Public Utilities Commission

Table I (cont.)

Issue	Agency	Role/Position
2. Natural gas supply; need for existing pipeline.	BLM	Must issue right-of-way grant for new pipeline segments, approve transfer of existing El Paso Natural Gas ROW to Sohio; was lead agency in preparation of NEPA EIS.
	FERC (FPC)	Must approve abandonment of existing gas line; must establish appraised value of El Paso gas line to establish tariff rates for Sohio; dispute over appraised value on appeal by El Paso.
	PUC	Must approve conversion of existing gas line.
	CERCDC	As state agency with overall responsibility for energy resources, questioned advisability of converting El Paso gas line.
	ARB	Requested assurances that gas line conversion would not reduce gas availability in southern California with adverse impact on air quality.
3. Need for Alaskan oil distribution.	FEA (DOE)	In general, promotes and coordinates effort to assure distribution of oil to areas of need.
	US Navy	Investigating means of distributing oil from Elk Hills National Petroleum Reserve by means of tie-in to proposed Sohio pipeline.
	Calif. Oil Industry	Faces problems using large amounts of relatively high sulfur Alaskan crude in existing refineries.

Legend

FERC: Federal Energy Resources Commission
FPC: Federal Power Commission
CERCDC: California Energy Resources Conservation and Development Comm.
FEA: Federal Energy Agency
DOE: Department of Energy

Table I (cont.)

Issue	Agency	Role/Position
3. Cont.	Sohio	Owns or controls 53% of North Slope Alaskan oil which can be marketed only in the United States; but has no West Coast refineries.
	CCC	Must consider national interest in issuing coastal permit.
4. Tanker Safety/Water Pollution	EPA	Must approve NPDES permit for onshore facilities.
	Coast Guard	Must approve marine facilities, tanker design, oil transfer operations, and shipping practices.
	CCC	Under state coastal act, must protect against speills and pollution in issuing permits.
	ARB	Potential hydrocarbon emissions from a major spill figured in publicly expressed concerns.
5. Coastal Zone Management	Corps of Engineers	Must issue permits for marine structures and portions of pipeline construction.
	CCC	Must issue or deny coastal zone development permit based on coastal act criteria and procedures.
	Port	As Sohio's sponsor/lessor/landlord, is applicant for coastal permit; required under coastal act to adopt and develop according to port master plan.

Legend

CCC: California Coastal Commission

Project Chronology

Sohio's investigations of potential sites for a major marine terminal in Southern California began informally during early 1974. Formal preliminary assessments were completed in late 1974 and in mid-1975 the company decided upon the Los Angeles area snd solicited development proposals and environmental analyses from the ports of Los Angeles and Long Beach; at the same time the company submitted applications for the first federal permits. Selection of the Long Beach site was made in December 1975, at which time local, state and federal agencies began to focus serious attention on the project.

Presently, two years after site selection, the project is within three to six months of securing final approvals, barring unexpected major new complexities in litigation or negotiations over air quality tradeoffs, according to several interviewees. The major events during this time are summarized below; they do not include the innumerable meetings held of the project, such as some 67 attended by ARB staff between January 1976 and July 1977.

June 1975 - El Paso Natural Gas Company filed application with FPC to abandon and retire certain natural gas pipelines from natural gas service.

October 1975: - Sohio submitted applications to BLM and FERC (then FPC) for conversion of gas pipeline to crude oil use and construction of new pipeline segments; project defined to have 700,000 BPD capacity; (500,000 BPD for transmission eastward and 200,000 BPD for local use); NEPA EIS study initiated with BLM as lead agency.

December 1975: - Long Beach Pier J site selected; application submitted to PUC for pipeline conversion/construction; CEQA EIR initiated with Port of Long Beach and PUC as co-lead agencies.

December 1975: - EPA informed Sohio by letter that NSR permit would be required.

March 1976: - Joint federal/state task force formed to provide consultation between EIR and EIS teams.

September 1976: - Draft copies of key sections of EIS circulated for comment to various agencies and private groups.

- Draft EIR published by Port of Long Beach and PUC.

October 1976: - ARB adopted Resolution 76-39, NSR rule for SCAQMD, requiring emission tradeoffs and ARB concurrence in major permits.

	- Air permit application submitted to SCAQMD (then SCAPCD).
November 1976	- Air permit (new source review) application submitted to EPA, Draft EIS published by BLM.
November 1976	- SCAQMD advised Sohio that its application was incomplete.
December 1976	- EPA requested additional information from Sohio.
	- Technical committee of ARB, SCAQMD, and Sohio staff published its consensus of emission factors to be used in air quality assessments of Sohio project.
	- EPA promulgated an "interpretive ruling" establishing criteria for approval of new sources in non-attainment areas, including requirement that emission offsets be greater than proposed new source emissions.
April 1977	- Final EIR published.
May 1977	- Final EIS accepted by CEQ.
	- EIR certified as final by Port of Long Beach.
	- CCC ruled that it would take initial jurisdiction over Sohio project.
June 1977	- EPA informed Sohio by letter that NSR application was still incomplete, requesting additional technical data.
	- SCAQMD informed Sohio of emission tradeoff requirements under NSR rule 213.
	- PUC certified final EIS.
	- Port of Long Beach submitted coastal permit application to CCC.
July 1977	- Major staff report of SCAQMD presented at public hearing.
August 1977	- Public hearing on coastal permit held by CCC.
September 1977	- Sohio reduced project capacity from 700,000 BPD to 500,000 BPD and number of berths from three to two.
October 1977	- Major supplement to staff report prepared by SCAQMD.

November 1977 - Responding to questions, project changes and new information, Port of Long Beach and PUC prepared and held a public hearing on a draft supplement to the EIR, the first prepared in California without being required by a court order.

November 1977 - CCC issued coastal permit for Sohio project allowing no more than three storage tanks on Pier J, and only in event CCC finds that they are essential to the project and that there are "no feasible, less environmentally damaging locations" for the tanks.

December 1977 - BLM staff submitted Program Decision Options Document to DOI Secretary Andrus recommending approval of ROW grants subject to certain stipulations.

- Port of Long Beach certified final supplement to EIR.

January 1978 - After 14 public hearings, SCAQMD conditionally approved NSR permit for Sohio subject to submittal of acceptable program of emission offsets meeting specified goals.

- NPDES permit approved by Regional Water Quality Control Board.

- PUC approved final supplement to EIR.

March 1978 - CCC held hearing on port request to amend coastal permit to allow three tanks on Pier J.

Analysis

Governmental reviews of Sohio's proposal have proceeded generally in two stages. From October 1975 through November 1976, environmental impacts were assessed and documented in a federal EIS and state EIR, prepared simultaneously by separate teams who maintained communications by means of a state-federal task force. From November 1976 to the present, following the impact assessment phase, the project moved into the permitting process, during which time all major permits have been applied for and processed.

The following observations highlight the most significant characteristics of the review process.

1. State and Federal Impact Assessment Processes

According to our interviewees, Sohio reimbursed government agencies between two and four million dollars each for the

EIS and the EIR. Though the CEQA EIR and NEPA EIS have similar information requirements, the EIS tended to include more detail on project impacts outside California than did the EIR. They were prepared by different agencies aided by different teams of consultants; in the case of the EIR, both the Port of Long Beach and the Public Utilities Commission had staff and consultants working in parallel on some sections of the study. With the various teams maintaining close coordination via the federal-state task force on Sohio, the two documents were completed within a few months of each other and reached approximately the same conclusions.

2. Environmental Impact Assessment Process Not Sufficient for Major Permit Decisions

This is particularly true of air quality, in which most of the information on which agency deliberations were based came after completion of the EIR and EIS in the fall of 1976.

For example:

- The final report, "Air Quality Analysis of the Unloading of Alaskan Crude Oil and California Ports", prepared by Pacific Environmental Services, Inc. (PES) for EPA as a technical assistance service to ARB, was completed in November 1976. While this work had been carried on simultaneously with and was provided in draft form to the EIR/EIS process, it was not finalized until after the DEIS and DEIR was published. Although not specifically designed to evaluate the Sohio project, the PES study nevertheless became a part of the subsequent evaluation process.
- The report of a definitive study on emissions from crude oil storage tanks, conducted by Chicago Bridge & Iron and Sohio, was published in November 1976.
- Beginning about the time the DEIR and DEIS were published, representatives of ARB, SCAQMD, and Sohio began meeting to develop consensus emission factors, publishing their report in December 1976. The consensus factors differed from those of the DEIR, DEIS, and PES studies.
- A definitive study of nitrogen oxides emissions from tankers was conducted by Sohio and the report received by SCAQMD in January 1977.
- Debates over what emissions should be assessed against the project, and what the probable air quality impacts were likely to be, continued throughout 1977.

It seems reasonable to expect the impact assessment process to provide adequate environmental information upon which regulatory bodies may base their decisions. We believe that one reason this did not occur in the Sohio air quality case is because regulatory agencies tend to focus full attention and scrutiny on a proposed development only when the issue of a permit is before them.

One is tempted to inquire what would have happened had Sohio made its NSR applications to SCAQMD and EPA in December 1975 when EPA and ARB advised them that permits were necessary, thereby triggering the full technical review processes of these agencies.

It appears that the only real impediment to this occurring was the state of flux in which the New Source Review (NSR) regulations of the Southern California APCD were in prior to October 1976 when ARB adopted what became Rule 213 of the the SCAQMD. ARB and SCAQMD were in process of developing a new rule throughout 1976 and it appears to have been mutually agreed between Sohio and the agencies to hold off on submitting an application until the new rule was adopted.

Had this circumstance not been in effect, however, it appears that the process might have benefitted from concurrent pursuit of the permitting and impact assessment processes. We find in our review of California processes no reason that major permits cannot be processed simultaneously with the EIR process. The CEQA prohibits issuance of permits until the EIR is approved, but it does not appear to prevent applications from being processed. This action in the Sohio case may have resulted in benefits such as more comprehensive impact assessments (i.e., not requiring supplementation), and approximately a year's less time for project review.

3. Good Interagency Coordination

Given the size, nature and controversial nature of the project, the more than two years of time required to bring it to the brink of approval cannot be too heavily criticized as excessively lengthy. Certainly a great deal of credit must go to the relatively close cooperation demonstrated by the various agencies in such enterprises as:

- Collaboration of the Port of Long Beach and PUC in preparing the EIR.
- Close cooperation between the BLM and the Corps of Engineers in preparing the EIS.
- The state-federal task force which coordinated EIR and EIS.
- The ARB-SCAQMD-Sohio collaborative technical effort to agree on consensus emission factors.

4. Differences Between Coastal Commission Responses to Air Quality and Other Environmental Issues

Deliberations of the Coastal Commission indicate thoughtful and independent attention to water quality, marine safety, and national energy policy, they also show nearly total deference to permitting authorities in establishing coastal permit conditions.

In recommending approval of the coastal permit, CCC staff drew upon a variety of independent information sources to support its conclusions in most areas in which its authority is highly discretionary. Air quality, however, is not a discretionary area: section 30253 (3) of the Coastal Act states that new developments must be consistent with requirements imposed by appropriate air quality regulatory agencies.

The California coastal permit process and the air quality permit process are essentially independent, as exemplified by this particular project in a non-attainment area. We believe the weak linkage between the two processes also would ensue in a "clean area" subject to PSD requirements.

5. Parallel Processing of Permits

The Sohio permitting process proceeded essentially in parallel among major agencies including EPA, ARB, SCAQMD, CCC, and the regional WQCB. This observation needs to be emphasized because it appears that only because of its pursuance of simultaneous reviews is Sohio as close to completion as it is today.

6. Precedent-setting Air Quality Policies

Whether cause or result of the controversy surrounding Sohio, the amount of new policy and precedent flowing from ARB and SCAQMD reviews of the project is remarkable in its scope and impact. The project was one of the first in which the full impact of SCAQMD's rule 213 adopted by ARB in 1976, had to be considered. As Sohio had no existing emissions under its control in Long Beach, it was required to seek third party emissions which it could reduce in order to provide "demonstrable benefits" to air quality in the south coast area. Similarly this was the first major project in California to have to deal with EPA's "interpretive ruling" on offsets, requiring it to exceed project emissions and "represent reasonable progress toward attainment of the applicable national ambient air quality standard."

In both these cases, decisions had to be negotiated concerning the numerical levels which constituted "demonstrable benefits" or "reasonable progress". EPA suggested it would accept any ratio of tradeoffs to emissions greater than 1:1 whereas SCAQMD staff initially proposed a 1.2:1 ratio. Not only ratios, but also the emissions base against which they can be applied, became subjects of controversy. Tanker emissions between Pt. Conception north of Santa Barbara and

Long Beach, and emissions from generating electric power used in the terminal ultimately were assessed against the project. The final ruling of SCAQMD on January 18, 1978 included tradeoff ratios ranging from 2:1 for sulfur oxides, nitrogen oxides and particulate matter, to 7.2:1 for hydrocarbons.

The cost of these tradeoffs to Sohio has been estimated to be as high as $100 million; but more than finances are involved. Since the tradeoff improvements all involve third party industries, complex negotiations are now in progress attempting to resolve serious questions of liability, responsibility for operating costs of Sohio-funded equipment at non-Sohio facilities, and permit requirements for tradeoff facilities. These negotiations probably are the greatest potential impediment to the timely resolution of the Sohio case.

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By Sumner Sharpe
Cogan & Associates

KAISER STEEL CORPORATION FABRICATION YARDS FOR OFFSHORE OIL WELL DRILLING PLATFORMS: PORTS OF EVERETT AND GRAYS HARBOR

Description of Proposed Projects

The Kaiser Steel Corporation, with headquarters in Oakland, California, has secured lease options to develop fabrication yards in Everett and Hoquiam, Washington. At the present time it is uncertain whether Kaiser intends to exercise either or both these options due to the fact that insufficient oil discoveries in the Northern Gulf of Alaska may be inadequate to warrant production of drilling platforms. However, in both cases, the ports of Everett and Grays Harbor have proceeded through the permit approval process and both sites are being filled and prepared for Kaiser's eventual use. The approval process includes appropriate state and federal permits for dredge, fill, and the construction of earthworks suitable for Kaiser's use, as well as the state-required shorelines management permits relative to activities in the coastal zone. The principal issues and actors for both cases are shown in Table 1 and discussed more fully in the individual case studies.

In both cases, the process for securing the required permits is confused by the fact that the port districts had requested approval to improve the particular sites in question prior to Kaiser's decision to secure lease options. The port's requests referred to the needs of other potential lessees. In both situations, revisions to the application were necessary to accomodate the Kaiser proposals.

Following are brief descriptions of each of the cases and a combined analysis based on the findings from both.

Table 1. Issues and Actors: Ports of Everett and Grays Harbor

Issue	Agency/Actor	Role/Position
1. Coastal zone management: application of Shorelines Management Act (Grays Harbor and Everett)	Cities of Everett & Hoquiam	Reviewed encironmental check list
	DOE	Reviewed city actions: accept or appeal decisions
	Ports of Grays Harbor & Everett	Applicants: prepared applications including environmental checklists
2. Loss of undeveloped tidelands (Grays Harbor)	Environmental groups	Wrote letters expressing concern about the effects of filling the tidelands
	City of Hoquiam	Dismissed concerns of environmental groups: SEIS not required
	EPA	Expressed concern about loss of tidelands, but agreed to approve, subject to use by water-dependent activity. Cited problem of employment as reason for not sustaining objection
	Corps of Engineers	Reviewed concerns of environmental groups: determined Federal EIS required: issued permit with condition that use be water-dependent
3. Effect on fishery resource (Grays Harbor)	Environmental groups	Wrote letters of concern regarding the effect on fishery resource
	National Marine Fisheries Service	Initially registered concern about fisheries impact. Later withdrew objection citing national energy needs as reason

Issue	Agency/Actor	Role/Position
4. Effect on fishery resource (Everett)	Washington State Dept. of Fisheries	Approved hydraulics permit but established limits on when dredging can take place to minimize fisheries impact. Result of condition may be to set back dredge and fill schedule and extend construction time beyond termination of existing COE permits, thus requiring new ones
5. Economic (employment) impacts (Grays Harbor)	EPA	Main consideration: withdrawal of objections to filling tidelands
	COE	Determined through EIS process that potential social and economic gains outweighed environmental loss: issued permit

KAISER: PORT OF GRAYS HARBOR

Principal Issues and Actors

The Port of Grays Harbor proposed to dredge and fill, construct a dike, pier, barge terminal, and marineways for Kaiser Steel Corporation which would then complete the site preparation for the manufacture and assembly of off-shore drilling platforms on a site at the confluence of the Chehalis and Hoquiam Rivers in Hoquiam, Washington. The major environmental issue is the loss, due to filling, of 36 acres of wetlands, including 25 acres of marsh and 11 acres of tideflats. The total Kaiser site comprises approximately 45 acres. If developed, the facility will employ approximately 175 to 250 people. The primary actors in the permit issuing process include the city of Hoquiam, Washington State Departments of Fish and Game, several environmental groups, and the U. S. Corps of Engineers, Seattle District office.

Prior to the recent decision to develop the site, the city of Hoquiam and the Port designated this site for industrial land use as part of an industrial development district established in the mid 1960's. The site had been used previously for industrial purposes--a sawmill burner, a seafood processing facility, an electric power generating facility, and a Hoquiam sewage pump station. Over the years, dredge spoils from channel maintenance have been pumped onto the site and the Port held the site back from development as a location for additional dredge materials. As a consequence of this dredging and filling activity, the site was considered as a natural wetlands area in the permit process for the Kaiser application, even though the commitment to urban uses was already made by the city through zoning and the shoreline plan.

Chronology of the Application/Approval Process

The following identifies the major points of interaction between the applicants and the regulatory agencies:

March 12, 1975:	Port of Grays Harbor applied simultaneously to the City of Hoquiam for a shoreline management permit and to the Corps of Engineers for permission to dredge and fill. This application was for the use of Port property for a sawmill, log and lumber sorting and storage yards and a barge loading facility for the ITT Rayonier Company.
March 27, 1975:	Port prepared environmental assessment.

May 12, 1975:	City of Hoquiam signed declaration of non-significance, i.e. stated that SEIS was not required; approved a shoreline permit.
May 21, 1975	EPA registered opposition to the March 12, 1975 application of the Port: environmental assessment inadequate and use was not water-dependent.
June 1975:	DOE stated shorelines permit technically incorrect and appealed the city's action to the Shorelines Appeal Board ITT Rayonier selected a non water-oriented site for the lumber mill.
July 23, 1975	National Marine Fisheries Services also registered opposition to the proposal
August 7, 1975:	Port of Grays Harbor submitted revised applications to the Corps for use of site by Kaiser Steel Corporation.
August 29, 1975:	Kaiser notified the Olympic Air Pollution Authority of its intent to construct and operate an assembly yard in Hoquiam.
September 2, 1975:	Based on revised shorelines permit applications and an expanded SEPA environmental checklist from port, City of Hoquiam concluded again that SEIS was not required.
September 2, 1975:	At a conference of the involved parties (not a hearing), DOE agreed to dismiss its earlier appeal of the shorelines permit, based on certain conditions agreed to by the port.
September 16, September 23, 1975:	Corps of Engineers twice sent out revised public notices noting change in amount of fill and use of site for assembly yard for offshore drilling platforms, barge terminal and marine ways. Corps notice cited sections of two laws - Section 10 of the 1899 River and Harbor Act and Section 404 of the 1972 Federal Water Pollution Control Act, as amended, under which a permit would be required.
September 22, 1975:	Corps notice influenced Washington Department of Natural Resources (NDR) letter stating its approval withheld pending receipt of request from Port of Grays Harbor to purchase fill materials; DNR advised port that it must apply for a lease.

October 14, 1975: EPA letter to Corps raised issue of wetland loss if Kaiser does not proceed on site; suggested condition that if this occurs area be used only for water-dependent uses.

November 4, 1975: Once again, the City of Hoquiam determined that the available information was adequate and issued a declaration of nonsignificance. This action was based upon the DOE-port agreements (see June 1975) with respect to dismissal of the DOE appeal.

November 7, 1975: DOE appeal of original shorelines permit officially dismissed with conditions, e.g. port develop a drainage plan.

November 17, 1975: Port of Grays Harbor agreed to conditions: revised shorelines permit became effective.

December 9, 1975: In response to EPA letter, Port of Grays Harbor pledged site to water-dependent uses.

December 15, 1975: Olympic Air Pollution Authority, after providing for a 30-day period of public comment and meeting with Kaiser, issued a "notice of construction" with the condition that Kaiser provide for monitoring of its activities.

In letter to the Corps, DNR stated it had no objection. (Between 9/22/75 and 12/15/75 the port and DNR worked out lease arrangements).

December 19, 1975: DOE issued water quality certificate in compliance with Sections 301, 302, 306 and 307 of the Federal Water Pollution Control Act.

December 22, 1975: Hydraulics permit issued by Washington State Department of Fisheries.

December 24, 1975: DOE letter to Corps of Engineers on behalf of State of Washington stated there were no objections to issuance of Corps permit.

January 15, 1976:	In response to letters from environmental groups, the Corps held a meeting. After review of all information, the agency determined that the combined port/Kaiser proposal would be a major action and ordered a federal EIS to be prepared. Interestingly, these same objections by environmental groups to the City of Hoquiam did not result in a declaration of significance, i.e. SEIS required.
May 14, 1976:	Draft EIS released by Corps for review.
July 23, 1976:	Federal EIS filed with President's Council on Environmental Quality.
July 30, 1976:	Final EIS noted in Federal Register.
August 30, 1976:	Corps permit issued.

As a result of this activity, the fill on the Kaiser site was approved on a one-time only basis and the port has completed its site preparation activities. Related to all of this activity, an OCZM grant was received during the fall of 1975 to develop an estuary management plan for Grays Harbor. This plan has been completed and is now under review. Future fill and future uses of Grays Harbor will be based on this plan.

In summary, after an evaluation of the potential economic and social gains and the environmental costs, the development was approved by the involved agencies. The Grays Harbor area has severe and chronic unemployment problems, and the opportunity for new employment opportunities was a key consideration in the decisions to issue permits. Additionally, there is some evidence that national energy needs were an important factor, especially in the withdrawal of the objections of the National Marine Fisheries Service, especially after Senator Jackson's office entered the process, i.e. letter of inquiry.

KAISER: PORT OF EVERETT

The Port of Everett proposed to use a site in the Norton Avenue Marine Terminal area to provide for the establishment of a Kaiser facility employing 200 to 250 people for the fabrication and assembly of steel towers and appurtenances for use as off-shore oil well drilling platforms. The total site consists of approximately 70 acres of filled tideflats. The specific request was to dike and fill 25 acres of tidelands, dredge 650,000 cubic yards of material, construct launchways, and build some surface improvements.

This was one of many related requests and revisions associated with the Norton Avenue Marine Terminal Project. Other activities included a marina and other industrial activities and the port and the Corps of Engineers are currently discussing the problems of permit extensions granted by the Corps long before Kaiser became a potential lessee.

Principal Issues and Actors

The principal federal agency involved in the approval process was the Corps of Engineers, Seattle District office. The principal state activity was shorelines management review, initiated by the City of Everett and subject to DOE review.

In the early 1970's, prior to the filing of the permit for this specific 25 acres, the Corps of Engineers had prepared an EIS titled Everett Harbor and Snohomish River Navigation Project which described comparable federal dredging with disposal at the Kaiser site. Consequent applications for shorelines and Corps permits resulted in various environmental assessment documents. By the time this application was submitted, a substantial amount of information was already available. In addition, the Norton Avenue area had been substantially developed so that "past and existing uses of the area have substantially degraded its biological productivity, its usefulness to fish and wildlife, and its esthetic character" (July 12th statement of Corps of Engineers, p. 14). There is also some recent evidence that intertidal areas, such as this one recolonize relatively rapidly after cessation of certain activities. (University of Washington College of Fisheries, March 1977 publication.)

Chronology of the Application/Approval Process

August 11, 1976:	Port of Everett applied for Corps permits to dredge and fill 25 acres of site.
September 17, 1976:	Public notice issued by the Corps of Engineers.
October 14, 1975:	DNR letter to Corps stated it had no interest in the land and therefore no objection to Corps permit issuance.

October 15, 1976:	Application for revised shoreline permit (Previously issued for chip handling facility and expansion of a plywood operation) submitted. The city approved this application but DOE objected. On January 29, 1977 a new shorelines permit application was submitted by the port to the City of Everett.
October 26, 1976:	EPA sent letter to Corps citing conditions related to insuring water quality during dredge and fill operations.
October 28, 1976:	Port of Everett agreed to EPA water quality management conditions.
January 19, 1977:	Port of Everett submitted draft supplement to 1973 state EIS for this particular application.
January 28, 1977:	Kaiser notified the Pugent Sound Air Pollution Authority of its intent to construct and operate the assembly yards at Everett.
January 29, 1977:	New shoreline permit application received by the City of Everett.
March 16, 1977:	City of Everett issued shorelines management permit for substantial development.
April 18, 1977:	Following the appropriate 30-day opportunity for the public to comment, the Puget Sound Air Pollution Authority gave Kaiser a "notice of construction" without conditions.
May 10, 1977:	DOE issued water quality certificate in compliance with applicable provisions of Sections 301, 302, 306, and 307 of the Federal Water Pollution Control Act.
May 10, 1977:	Aware of the pending hydraulics permit approval (see May 17) DOE sent letter on behalf of the State of Washington stating no objections to issuance of the Corps permit.
May 17, 1977:	Hydraulics permit issued by State Department of Fisheries, with conditions including time limitation when dredging can occur because of the potential impact on the fisheries.

May 17, 1977: (cont.) This condition has set back the port's construction schedule, causing difficulties with the termination of older Corps permits related to this site. Unless resolved, the Port may have to submit requests for new permits to replace those that will terminate during the extended construction period.

July 11, 1977: Corps of Engineers issued permit and declared federal EIS not required.

November 16, 1977: COE sent out notice of revisions to 7/11/77 permit - channel wideth, channel depth changes and source of dredge materials modified.

January 17, 1978: DOE signed off for the State of Washington. At the present time (March 1978) negotiations continue between the Corps and the port.

As a result of the wide range of port activities and its obvious impact on the community, a planning mediation committee, comprised of port officials and citizens, developed a set of consensus guidelines as the basis for the development of a comprehensive plan for the port. The Port of Everett Commission approved the guidelines on October 31, 1977. Although this was not a direct result of the Kaiser proposal, it does reflect the concerns of the community about restricting the areas of future industrial activity. It is also noteworthy that this policy document follows rather than proceeds decisions which have already committed a large area of the port's jurisdiction to development.

ANALYSIS/EVALUATION

Environmental Review Process Sensitive to Local Differences

With reference to federal EIS requirements, the system appears to be adequately sensitive to local environmental issues. For example, no federal EIS was required for the Everett site which was clearly committed to industrial use at the time of the application, but one was required at Grays Harbor where that commitment was not so certain and where a loss of marshlands was involved. The relatively high degree of environmental sensitivity at Grays Harbor was the key issue in influencing the decision which resulted in the preparation by the Corps of Engineers of a federal EIS for that site.

Potential Developments May Pose Problems

In neither case was there any discussion for handling potential developments. For example, if Kaiser does not proceed at the Grays Harbor site, an environmentally sensitive area has been irretrievably committed to development since the marshlands at the site have already been filled by the port in accord with the permits. In addition, not only is there uncertainty about Kaiser's use of the sites, but it also is unclear at this time exactly what Kaiser proposes to do in terms of site development. If Kaiser proceeds and there are major changes in site development specifications, further revisions to existing permits may be necessary.

Shoreline Permit Revision Process Uncertain

The state DOE seems uncertain about how to handle shoreline permit revisions of these types. In the case of Everett, the DOE ruled that a new application was required and in fact objected to the city's approval of a revised application. However, in Grays Harbor, a revised permit was approved and DOE did not object. By agreement between the port and DOE, DOE's objections to the original permit for a sawmill at the site was removed, subject to conditions.

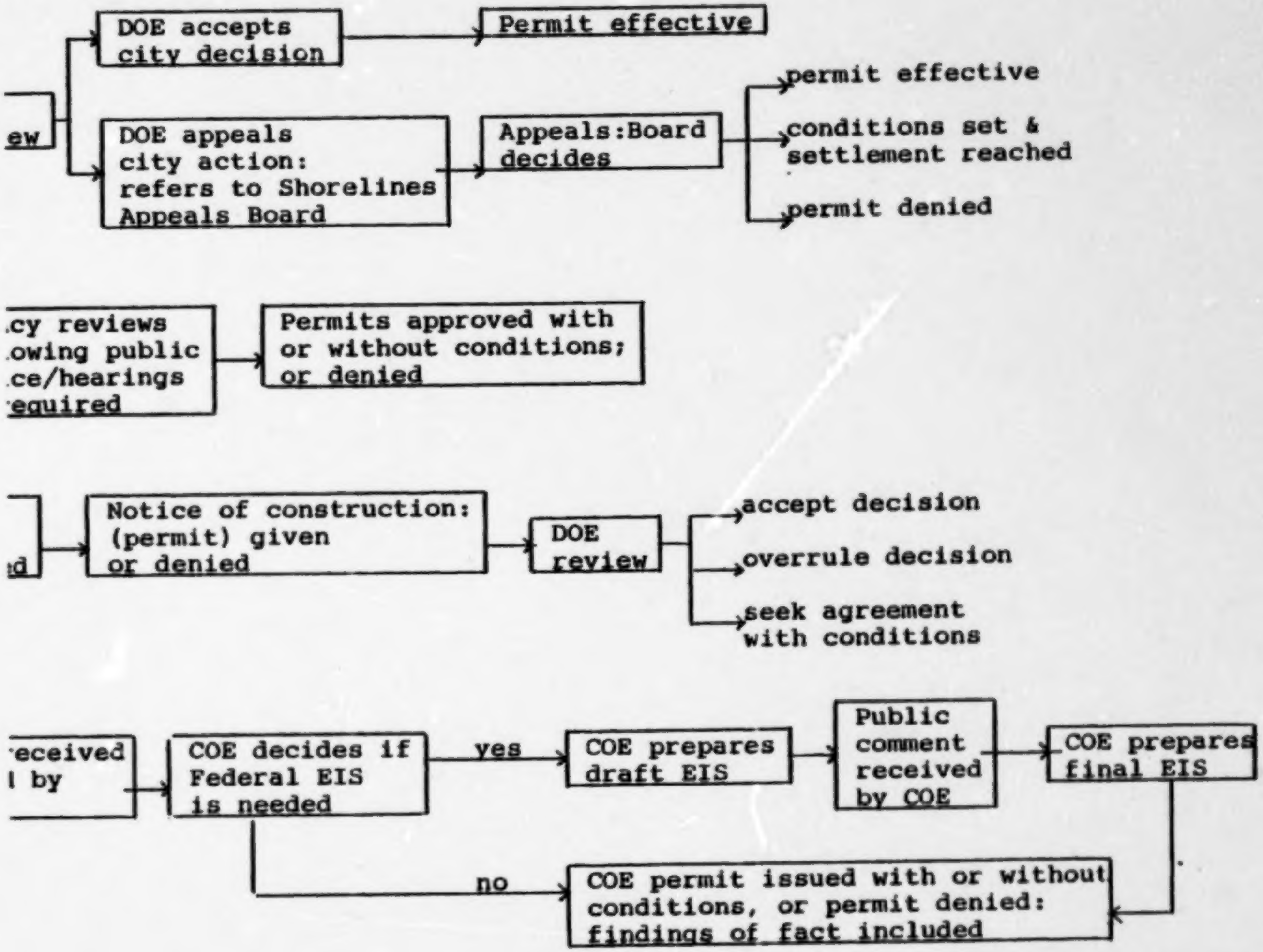
Planning Follows Rather than Precedes Regulation

In both Everett and Grays Harbor, attempts at planning for future development seem to have resulted from the regulatory process. In Grays Harbor, an OCZM-funded estuary management plan is being developed by an interagency task force and presently is under review. In Everett, a citizens planning/mediation committee has produced a set of consensus guidelines for future development of the port area. While these guidelines are now being discussed, they do not appear to carry the authority of the Grays Harbor plan, nor the official approval of state and federal resource agencies.

Applicant Responsible for Coordination

Unless the application is subject to the procedures of the State of Washington's Energy Facility Siting Evaluation Council or the applicant voluntarily initiates the procedures authorized by the 1973 Environmental Coordination Procedures Act (ECPA) the process for integrating permit procedures is uncertain. In fact, the applicant serves as the coordinator. Fortunately in both of these cases, the ports served as the coordinators. (Figure 1 shows the general flow of permit-related activities that were involved in both cases). Unless there is a local agency, e.g. port authority or county which can assume the lead or coordinating role, the procedures for intergovernmental coordination, review and approval are generally unspecified. However, there is some evidence that, with DOE assistance, counties are becoming more capable of advising applicants for permits in coastal zone areas. In addition, the DOE attempts to provide general coordination of state agency permitting activities, within budgetary and regulatory limitations. Overall, the Washington State permitting process appears to be coordinated better than in many other coastal states.

Activities: Kaiser/Ports of Everett and Grays Harbor


ew
DOE accepts city decision
Permit effective
DOE appeals city action: refers to Shorelines Appeals Board
Appeals:Board decides
permit effective
conditions set & settlement reached
permit denied
.cy reviews .owing public .ce/hearings 'equired
Permits approved with or without conditions; or denied
.d
Notice of construction: (permit) given or denied
DOE review
accept decision
overrule decision
seek agreement with conditions
'eceived l by
COE decides if Federal EIS is needed
yes
COE prepares draft EIS
Public comment received by COE
COE prepares final EIS
no
COE permit issued with or without conditions, or permit denied: findings of fact included

Conclusions

Generally, it would appear that the federal procedures, with the Corps as lead agency, were followed; that federal agencies were able to suggest and receive responses to conditions during the Corps EIS review process; that state agency responses to Corps notices were coordinated by DOE; and that a timely review process was pursued. However, in the instance of state procedures, the shorelines permit process does not serve as an umbrella for other permit processes and therefore, each applicant is subject to the vagaries of an essentially unspecified set of procedures for obtaining the requisite approvals. No lead agency is defined and the applicant must act as its own coordinator and is responsible to insure that all required permits are obtained. with the exception of actions subject to EFSEC procedures.

However, as previously noted, the opportunity to use ECPA procedures and the improving ability of counties to advise more applicants, with DOE assistance, is making the permitting process increasingly intelligible in the State of Washington.

EPA Case Study No. 4
Revised June 6, 1978
By Linda Macpherson
Cogan & Associates

A PROPOSAL TO CONSTRUCT AND OPERATE A FABRICATIONS YARD TO ASSEMBLE OFFSHORE OIL PLATFORMS AT WARRENTON, OREGON

Description of Proposed Project

Pacific Fabricators, Inc. of Portland, a wholly-owned subsidiary of Brown & Root, Inc. of Houston, Texas, proposes to construct a fabrication yard to assemble components of offshore oil drilling platforms. The structures would be constructed and used for oil and gas development on the outer continental shelf (OCS) of the west coast. The proposed facility would be located in the City of Warrenton in Clatsop County, Oregon, approximately 10 miles from the Pacific Ocean at the confluence of the Columbia and Skipanon Rivers. See figure 1.

Navigable channels are critical to providing access to the facility for supply and transportation barges. Currently, the Corps of Engineers maintains a 14-foot channel in the Skipanon River. The Pacific Fabricators facility would require a 20-foot depth. Diking, dredging and filling of wetlands as well as general construction are necessary before the proposed 344 acres fabrication yard is in operation.

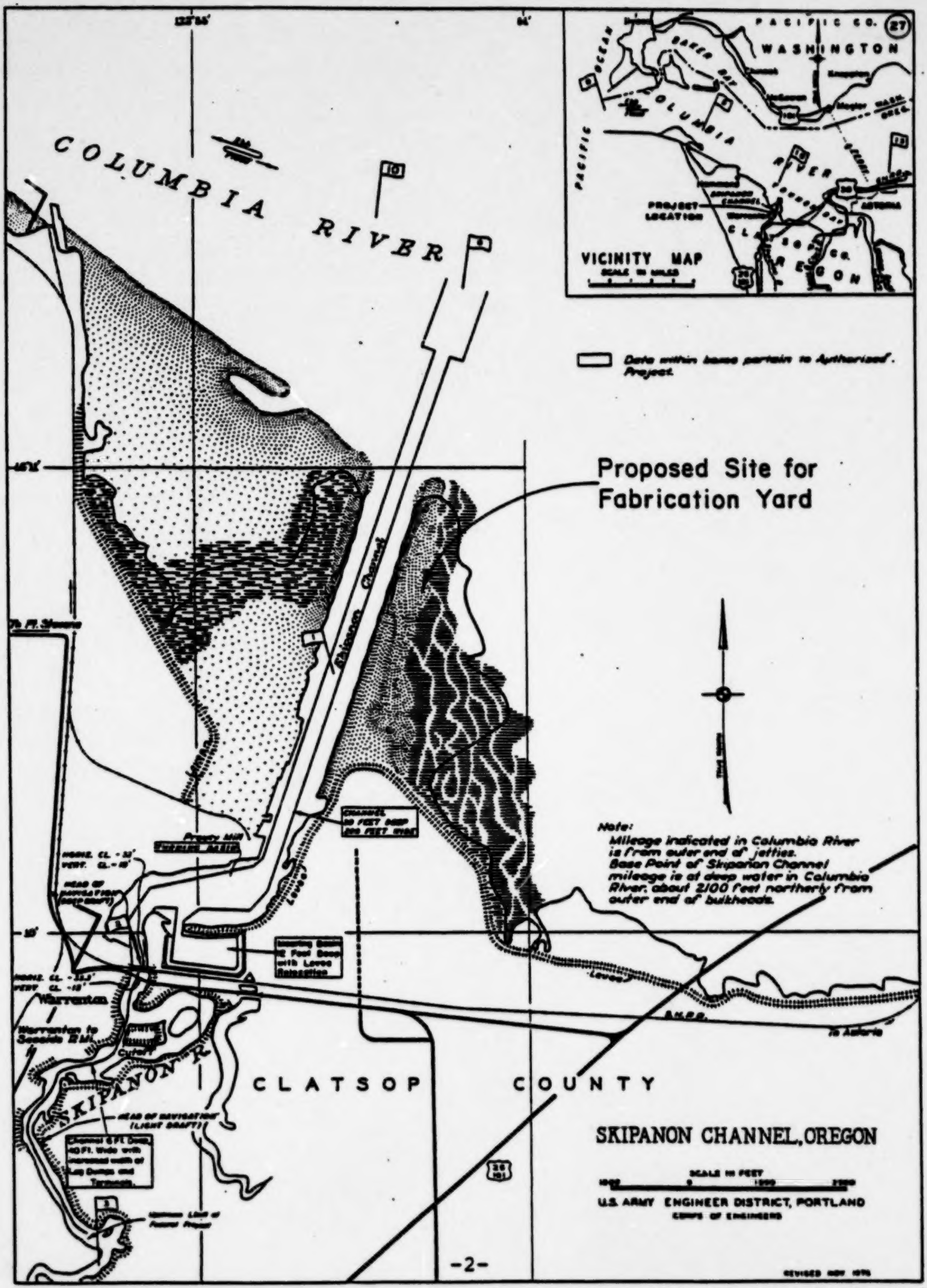
This case study reviews the various procedural matters including federal, state and local requirements that must be met before the proposed facility is approved. Matters which impede or facilitate the progress of the proposal are discussed.

Principal Issues and Actors

Dredging of the river and subsequent disposal of the dredged material necessary to construct the fabrications plant eliminates habitats for subtidal, intertidal and upland habitats for fish and wildlife. The amphipod Corophium salmonia, a major source of food for juvenile salmon, would be impacted at the site by the project. There is a concern that the reduction of this amphipod could result in a decline in salmon production.

The agencies directly involved in the dredge and fill permit process are the U.S. Army Corps of Engineers and the Oregon Division of State Lands. The Port of Astoria, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, Oregon Department of Land Conservation and Development, Environmental Protection Agency, National Marine Fisheries Service and the U.S. Fish and Wildlife Service are also major participants.

FIGURE 1: LOCATION OF THE PROPOSED FABRICATION YARD*


COLUMBIA RIVER
10
9
PACIFIC CO.
27
WASHINGTON
BAKER BAY
COLUMBIA RIVER
PACIFIC OCEAN
WASH.
OREG.
PROJECT LOCATION
ASTORIA
CLATSOP CO.
OREGON
VICINITY MAP
SCALE IN MILES
Data within boxes pertain to Authorized Project.
Proposed Site for Fabrication Yard
Skipanon Channel
Note:
Mileage indicated in Columbia River is from outer end of jetties.
Base Point of Skipanon Channel mileage is at deep water in Columbia River, about 2100 feet northerly from outer end of bulkheads.
Levee
Warrenton
Warrenton to Seaside 12 Mi.
Cutoff
SKIPANON R.
HEAD OF NAVIGATION (LIGHT DRAFT)
CLATSOP COUNTY
To Astoria
SKIPANON CHANNEL, OREGON
SCALE IN FEET
1000 0 1000 2000
U.S. ARMY ENGINEER DISTRICT, PORTLAND
CORPS OF ENGINEERS

*from the Corps of Engineers, Draft Environmental Impacts Statement: Construction and Operation of Pacific Fabricators' Steel Structure

It is estimated that 2,000 primary and secondary new jobs may be generated when the full facility is in operation. While the increased population will cause a demand for housing and strain existing service delivery systems, the project is anticipated to benefit a county hard hit by cyclical unemployment. Governor Bob Straub strongly favors the project due to its perceived beneficial economic impact. Socio-economic impacts to be determined by the State of Oregon depends on the size of the proposal ultimately approved. These will be considered in the environmental impact statement process, including appropriate mitigation of any adverse effects which may be found.

Among the governing bodies involved in planning, regulating or setting standards impacting the project are the Oregon Land Conservation and Development Commission (LCDC), the Clatsop-Tillamook Intergovernmental Council (CTIC) and local jurisdictions. In 1976 CTIC received a $22,000 coastal energy impact program (CEIP) grant under the Federal Coastal Zone Management Act. It was awarded by the Department of Land Conservation and Development, the administrative agency which implements the Oregon Coastal Management Program, and is designed to enable local residents to understand as well as plan for the impacts of a major energy facility.

To ensure that the estuarine ecosystem is maintained, LCDC Goal 16 on Estuarine Resources requires the biological mitigation of the effects of dredge and fill activities. LCDC goals are implemented by state resource agencies and local governments. While the applicant has agreed that effects will be mitigated, final mitigation activities will depend on the ultimate size of the project. The Division of State Lands will prepare a mitigation plan for the project before a state removal/fill permit is granted.

Section 307 of the Federal Coastal Zone Management Act provides that affected federal agencies must determine whether their actions are "consistent to the maximum extent practicable" with the state's coastal zone management program. The LCDC goals and guidelines are the key to the implementation of the CZMP. The Corps' final environmental impact statement or permit will reflect the state's mitigation measures and any additional federal agency requirements.

Chronology of the Application/Approval Process

The following identifies the major points of interaction between the applicant and the regulatory agencies.

May 18, 1976:	Applicant submitted a completed application to the Oregon Intergovernmental Relations Division (IRD). This submission initiated the permit coordination program or "one stop" system designed to give centralized information concerning permit requirements of key

May 18; 1976: (continued) state agencies. The IRD circulated the application of each appropriate state and local regulatory agency, giving them 30 days to determine if the project required any of their permits.

May 21, 1976: Pacific Fabricators, Inc. applied to the Portland District Corps of Engineers for a waterway alteration permit pursuant to Section 10, Rivers and Harbors Act of 1899. Application also was made for the discharge of dredge and fill materials under Section 404 of the Federal Water Pollution Control Act Amendments of 1972 and the Clean Water Act of 1977. The Corps jurisdiction under these acts involves regulating work in navigable waterways and associated wetlands.

June 16, 1976: The Environmental Resources Branch of the Portland District Corps of Engineers prepared a preliminary environmental assessment. The assessment concluded that an environmental impact statement (EIS) was required since the proposed action would significantly affect the quality of the human environment.

June 18, 1976: Oregon state regulatory agencies completed review. The Intergovernmental Relations Division submitted to the applicant a list of developmental permits needed.

June 29, 1976: The Corps filed a public notice of the application which was mailed to interested individuals, groups, businesses, governing bodies and regulatory agencies. The Oregon State Division of State Lands, through a 1975 agreement, is the lead state agency for activities involving Corps dredge and fill permits. DSL initiated coordination of state agency review.

November 23, 1976: Due to an alteration in the original proposal, a revised notice was filed and distributed as above.

December 1, 1976: Pacific Fabricators, Inc. applied for a removal and fill permit with the Oregon Division of State Lands (DSL). DSL has the authority to regulate the removal of materials from the beds and banks of all waters of the state as well as the filling of the states waters. DSL's enabling legislation gives its director 45 days from the application date to reach a decision on removal and 90 days in the case of fill. The division asked the applicant to

December 1, 1976: (continued) waive the time period for decision until the draft EIS, to be prepared by the Corps. was released. Request was granted.

December 15, 1976: Pacific Fabricators, Inc. submitted an application to DEQ for an air contaminant discharge permit which is required to fulfill state air quality regulations.

January 16, 1977: Pacific Fabricators, Inc. applied for a National Pollution Discharge Elimination System (NPDES) permit. The NPDES permit is required by the Federal Water Pollution Control Act Amendments of 1972. The State Department of Environmental Quality (DEQ) has been delegated the authority to issue the permit by the U.S. Environmental Protection Agency.

March 1977: Montagne, Bierly & Associates, Inc., consultants to Pacific Fabricators, submitted an environmental assessment report to the Corps and the State in response to a Corps request for environmental data.

May 9, 1977: The DEQ air quality section approved in concept the applicant's plans and specifications indicating it was prepared to grant a state air quality discharge permit if matters remain essentially the same.

June 30, 1977: Public notice of the draft NPDES permit was filed by DEQ.

July 5, 1977: The Clatsop-Tillamook Intergovernmental Council was awarded a planning grant by LCDC to assist a coordinated "community impact assessment" study of the effects of the Warrenton fabrication yard. The grant was a subgrant from Oregon's 305 outer continental shelf supplemental grant from OCZM.

September 13,1977: DEQ issued an air contaminant discharge permit.

September 14,1977: DEQ granted an NPDES permit.

October 11, 1977: LCDC distributed the CZMA funds to the CTIC.

December 1977: Draft environmental impact statement released by the Corps, containing materials from the applicant's environmental assessment report which were revised and condensed based on a Corps evaluation. Information on alternative site locations and configurations as well as new data on the market for offshore structures was included.

January 24, 1978: First meeting of the Clatsop County Community Impact Task Force.

February 15, 1978: The required hearing on the draft environmental impact statement was a joint DSL-Corps hearing. Comments received from other state agencies will be incorporated into a letter for the governor's approval and signature which will be forwarded to the Corps of Engineers. The governor's recommendation is a critical element in the final decision stage. The division anticipates receipt of agency comments by June 1, 1978 and a state decision on the removal and fill permit by July 1, 1978.

Joint DSL and Corps of Engineers public hearing on the draft environmental impact statement. The majority of the comments at the hearing focused on:

- need for alternative designs which might minimize subtidal and tidal filling;
- potential conflict in access to the Clatsop County Airport affecting the U.S. Coast Guard's search and rescue efforts;
- concern about phasing of the construction of the facility to meet market demands;
- potential mitigation measures;
- need to increase the economic base in the local area.

The draft EIS also was criticized for conflicting data and poor maps.

Generally, the Corps will not issue a permit if there are significant unresolved objections by federal resource agencies: the Environmental Protection Agency, the Fish and Wildlife Service, and the National Marine Fisheries Service. Additionally, no Corps permit will be granted to a project for which necessary state or local permits have been denied. If the project does not comply with the state's coastal zone management program, it usually will not be given federal approval. (Cases of national defense or overriding national interest are examples of exceptions.)

However, the Corps is not required to approve a project even though the project has received state approval. For instance if another federal agency is adversely impacted, the Corps may deny the permit. The progress of the application is depicted in figure 2.

Analysis/Evaluation

Coordination. Pacific Fabricators contracted with the Salem, Oregon firm of Montagne, Bierly & Associates to handle the permit procedure. Its coordination program with state and federal and other interested or affected agencies fostered the smooth flow of information throughout the application process. Meetings with individual or several agencies to discover specific permit requirements were initiated early and continued throughout the process.

All participants contacted by the consultant to this study described the applicant's consultants as responsive to local area concerns and willing to engage in open discussion. Montagne, Bierly & Associates also completed the Pacific Fabricators environmental assessment report provided to and examined by the Corps in preparation of its draft EIS.

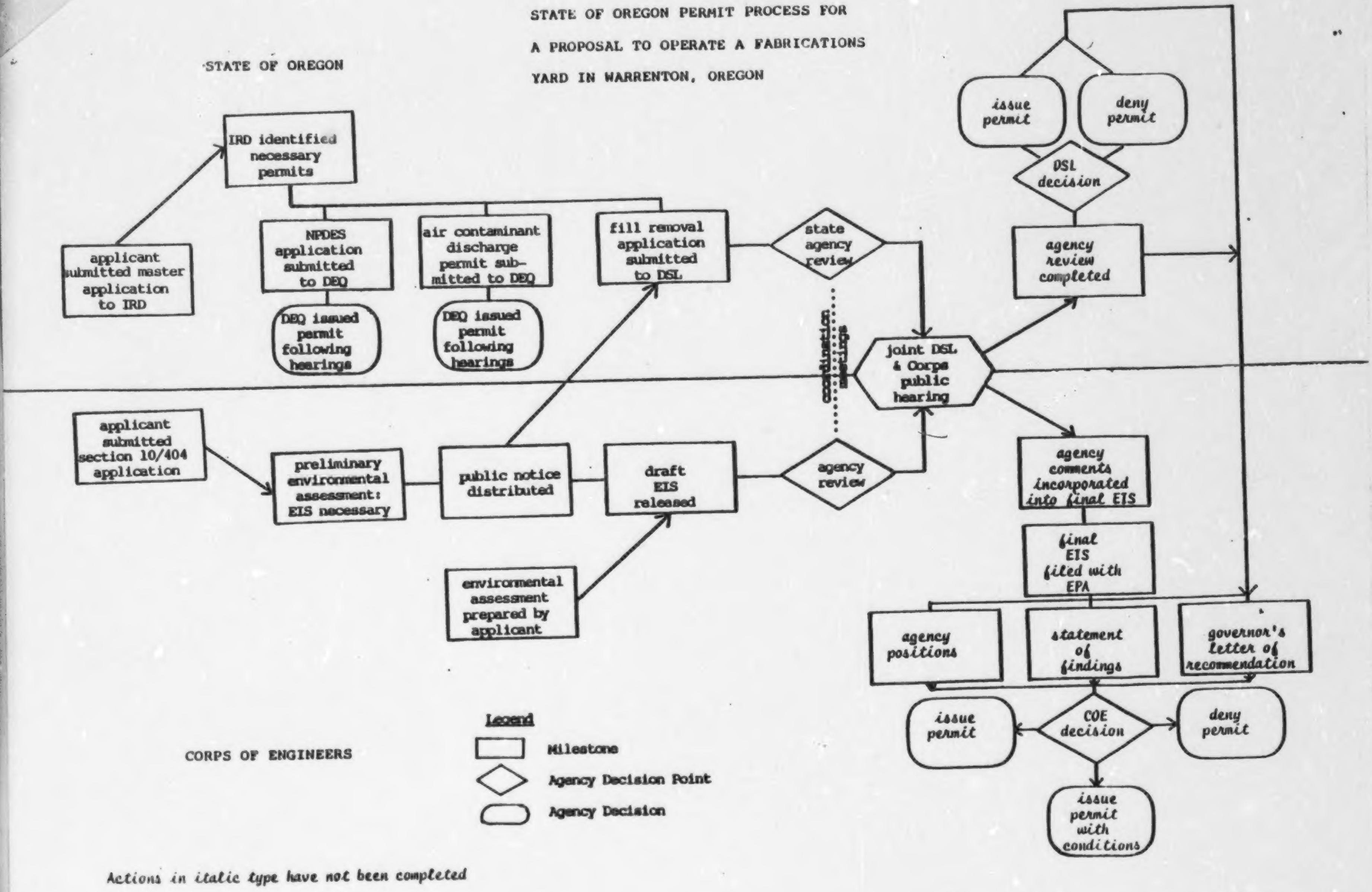
Environmental Impact Statement Delay. The most frequently mentioned problem was delay in draft EIS preparation. The environmental assessment report, requested by the Corps to complete the draft EIS was completed by the consultant in May 1977. It preceded the draft EIS by 9 months.

Some observers felt the lack of project visability during this preparation period led to frustration at the local level. To the consternation of many, the COE changed its anticipated completion date several times caused in part by lease schedule postponments. Some indicated pessimism that the plant ever would be built, due to delays.

Additionally, some participants feel that EIS preparation requirements lengthened the process unduly. An attorney for the applicant gave the opinion that the EIS standards should be explicitly related to the proposal. Noting the inapplicability of the historical and archaeological resources section of the EIS to the site, the attorney concluded that requiring a standardized approach to the EIS extends completion time.

One Corps staff member indicated his opinion that the prescribed CEQ EIS format led to some redundancies and time loss. CEQ has since relased draft regulations which are intended to strengthen and streamline the EIS process significantly.

FIGURE 2: CORPS OF ENGINEERS AND STATE OF OREGON PERMIT PROCESS FOR A PROPOSAL TO OPERATE A FABRICATIONS YARD IN WARRENTON, OREGON


STATE OF OREGON
applicant submitted master application to IRD
IRD identified necessary permits
NPDES application submitted to DEQ
DEQ issued permit following hearings
air contaminant discharge permit submitted to DEQ
DEQ issued permit following hearings
fill removal application submitted to DSL
state agency review
coordination meetings
joint DSL & Corps public hearing
agency review completed
DSL decision
issue permit
deny permit
CORPS OF ENGINEERS
applicant submitted section 10/404 application
preliminary environmental assessment: EIS necessary
public notice distributed
draft EIS released
environmental assessment prepared by applicant
agency review
agency comments incorporated into final EIS
final EIS filed with EPA
agency positions
statement of findings
governor's letter of recommendation
COE decision
issue permit
deny permit
issue permit with conditions
Legend
Milestone
Agency Decision Point
Agency Decision
Actions in italic type have not been completed

Comments elicited during the public and agency review of the draft EIS could lead to delay in the release of the final EIS. New information may need to be developed and new designs analyzed. In addition, the Corps of Engineers doubtless finds the decision making process sensitive. The Corps will have to determine whether questions indicating additional study are of such significance to the public interest to cause further delay and potential loss of a $100 million project.

"One Stop" Permit System. By completing a single master form under Oregon's permit coordination procedure, the applicant was able to identify the state permits necessary for that project. However, the "one stop" system did not provide specific information on the regulatory requirements of each agency. Personal contact still was necessary.

It should be noted that the Pacific Fabricators application was one of the first to be processed by the IRD since the system's inception. IRD recently has instituted a policy of holding pre-application conferences and joint resource agency/applicant meetings during the application process. This new policy affords the applicant opportunity to develop an early understanding of the regulatory procedures and agency concerns. Although the consultant initiated many meetings, it can be assumed that the joint agency/applicant pre-application conference would have proved beneficial.

Socio-economic Impacts. The Clatsop County Community Impact Task Force, working under a CZM grant to study the impacts of the fabrication plant, held its first meeting on January 24, 1978. The task force decided to undertake the bulk of the work through technical committees, anticipating issue of its final report in June or July, 1978. With the possible exception of transmitting new demographic information to the Corps of Engineers during the review process of the draft EIS, the task force will not try to directly influence the Corps decision. Its final recommendations will be to federal and state agencies as well as affected local jurisdictions.

Some local residents believe that all impacts should be clearly understood before any permit is issued. Others, believing that the potential of increased employment opportunities warrants taking other risks, do not want the task force to be actively involved in advising the Corps through the EIS process.

Timing of the release of the task force's report may influence the Corps decision.

Next Steps. Future work on the application includes the following steps:

The final environmental impact statement will be prepared by the Corps and filed with EPA. No action will be taken for 30 days after filing the final EIS.

After considering all comments concerning the permit application, the Corps will prepare a statement of findings on the proposed project.

If the Corps concludes that the proposed project is in the public interest, permit will be issued with or without conditions. The flow of all events leading to a COE permit determination is found in Figure 2.

Long term occupancy of state-owned submerged and submersible lands requires a lease from the Division of State Lands. The Port of Astoria will negotiate with DSL to obtain the lease. The applicant must negotiate a lease option from the Port.

EPA Case Study No. 5
Revised June 6, 1978
By Linda Macpherson
Cogan & Associates

A PROPOSAL TO PROVIDE A COMMON CARRIER TRANSPORTATION SYSTEM FOR RECEIVING CRUDE OIL BY TANKER AT PORT ANGELES, WASHINGTON AND TRANSPORTING IT TO INLAND MARKETS

Description of Proposed Project

The Northern Tier Pipeline is a proposal of the Northern Tier Pipeline Company of Montana to construct and operate a port facility at Port Angeles, Washington, and a pipeline system extending from Port Angeles approximately 1,550 miles to Clearbrook, Minnesota. The pipeline would transport oil from Alaska and other foreign sources to northern, midwestern and eastern refineries. The general route of the pipeline is shown in figure 1. This case study addresses only that portion of the project within the Washington coastal zone, that is, between the Strait of Juan de Fuca and the crest of the Cascade Mountains.

The proposed project consists of a marine terminal at Port Angeles, including two tanker unloading berths connected by submerged unloading pipelines to an onshore storage facility located approximately seven miles east. The pipelines would cross Port Angeles Harbor and terminate at the unloading facility where the main pipeline system would originate. Support facilities are proposed to be constructed at the marine terminal and along the way. Between Port Angeles and the crest of the Cascades, most of the proposed route would follow existing utility line corridors in forested lands.

This case study describes the various federal, state and local processes needed to obtain approval for such a facility within the coastal zone.

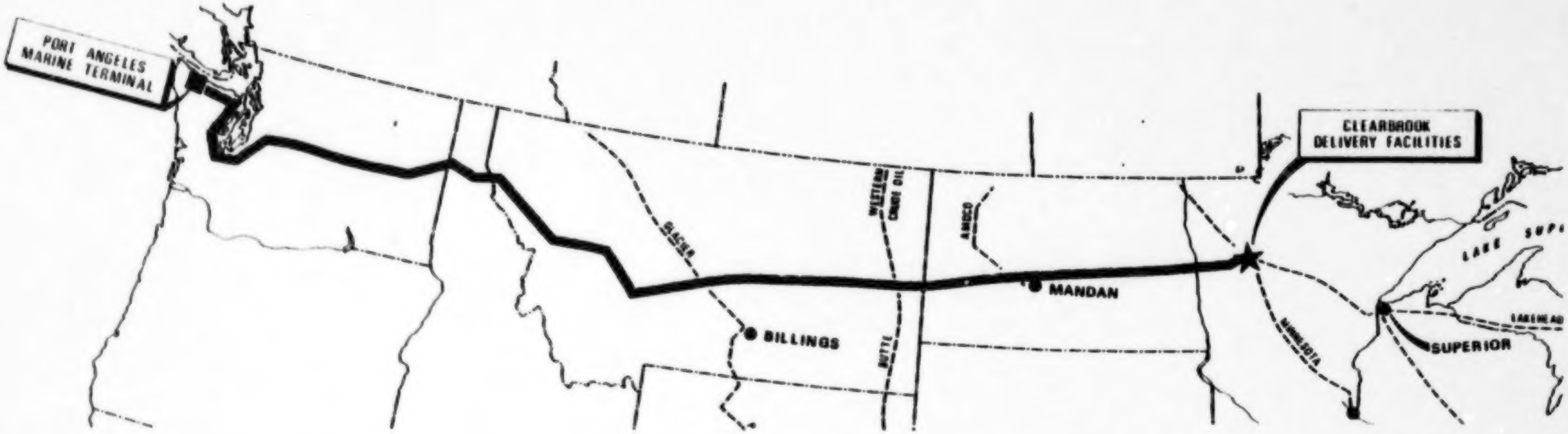
Principal Issues and Actors

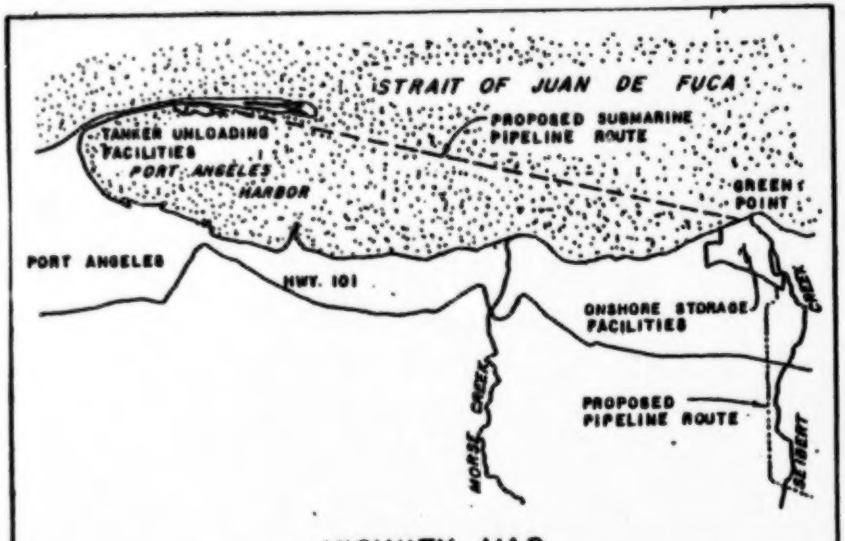
One of the principal issues relevant to the Northern Tier pipeline project is the network of interrelationships among state agencies and programs.

The Washington State Siting Act, as expressed in RCW 80.50.010, provides a framework for balancing the growing need for energy with environmental protection. The permitting process for energy projects, including marine terminals and pipelines, is unified within the state Energy Facility Site Evaluation Council, (EFSEC), which has the authority to preempt other state and local requirements to provide a "one stop" permit process. Fourteen

Figure 1

GENERAL ROUTE MAP
NORTHERN TIER PIPELINE SYSTEM


PORT ANGELES MARINE TERMINAL
CLEARBROOK DELIVERY FACILITIES
GLACIER
WESTERN CRUDE OIL
AMOCO
BUTTE
BILLINGS
MANDAN
MINNESOTA
LAKE SUP
LAKEHEAD
SUPERIOR


STRAIT OF JUAN DE FUCA
PROPOSED SUBMARINE PIPELINE ROUTE
TANKER UNLOADING FACILITIES
PORT ANGELES HARBOR
GREEN POINT
PORT ANGELES
HWY. 101
ONSHORE STORAGE FACILITIES
PROPOSED PIPELINE ROUTE
MORSE CREEK
SEIBERT CREEK

VICINITY MAP
PORT ANGELES MARINE TERMINAL

*from Butler Associates, Inc. Northern Tier Pipeline Project Description of the Proposed Action, February 8, 1978.

state agencies as well as affected local governments are represented on the council to provide coordination among state and local interests related to a particular site application. Construction of the Northern Tier Pipeline in Washington is dependent on a favorable recommendation of the EFSEC and the approval of the governor who makes the final certification decision. No other permit is required by any state agency.

According to the Northwest Federal Regional Council's permit issuance study, *Regulatory Requirements Impacting an Interstate Crude Oil Pipeline System*,[1] 13 federal agencies must issue some form of license, permit, or approval for some phase of the pipeline project. The lead responsibility for this pipeline project has been assigned to the Bureau of Land Management (BLM) in the Department of the Interior.

In addition to BLM the federal agencies involved with the portion of the pipeline project which lies within the Washington coastal zone include:

Management Agencies

- Bonneville Power Administration
- U. S. Forest Service
- Fish & Wildlife Service
- Bureau of Indian Affairs
- Bureau of Reclamation

Regulatory Agencies

- U. S. Army Corps of Engineers
- Environmental Protection Agency
- Federal Aviation Administration and U. S. Coast Guard, Department of Transportation
- Federal Communications Commission
- Interstate Commerce Commission

Table I identifies the principal actors and their general roles. Each is represented on a BLM coordination committee which also includes other interested federal agencies, a representative from each state and a representative of Clallam County and the City of Port Angeles. The committee will supply some of the data required by the Northern Tier Pipeline study team and

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[1] Federal Northwest Regional Council, *Permit Issuance Study, Vol. 2 Regulatory Requirements Impacting an Interstate Crude Oil Pipeline System*, March 5, 1977.

TABLE I
SUMMARY OF FEDERAL/WASHINGTON STATE PERMIT REQUIREMENTS[2]

A. Federal Permit/Approval Requirements

	Federal Action Agency	Activity Requiring Approval	Form of Approval	Authority
1.	Bureau of Land Management (Dept. of Interior)	Construction and easement across BLM lands	Permits for right-of-way and temporary use outside of right-of-way	Sec. 28 Mineral Leasing Act as Amended 43 CFR 2800 43 CFR 288 43 CFR 2800 Federal Policy & Mgt. Act of 1976
2.	Bureau of Indian Affairs (Dept. of Interior)	Survey, construction, and easement across Indian Tribal Lands	Permits for right-of-way and temporary use outside of right-of-way	33 Stat. 65 39 Stat. 973; 25 USC 321 62 Stat. 17; 25 USC 323-328; 25 CFR 161
3.	National Park Service (Dept. of Interior)	Construction and easement across National Parks	Permit for temporary use outside of right-of-way	36 CFR 5.7
4.	Fish and Wildlife Service (Dept. of Interior)	Construction involving temporary use of National Wildlife Refuge or areas with wetland protection easements	Permit for temporary use outside of right-of-way	43 CFR 2800
5.	Bureau of Reclamation (Dept. of Interior)	Crossing of land and facilities within an existing irrigation project developed by the Bureau of Reclamation	Crossing agreement contract	32 Stat. 388 43 CFR 230
6.	Bonneville Power Administration (Dept. of Interior)	Crossing of Bonneville Power Administration easement	Joint Use Permit	Permit negotiated no regulations
7.	Forest Service (Dept. of Agriculture)	Construction and easement in National Forest Lands	Special Use Permit	36CFR 251.50 et seq. 36CFR 212.10
8.	Corps of Engineers (Dept. of Army)	Dredging, filling, breakwater construction, construction of a pipeline in an estuary area.	Department of Army Permits	River and Harbor Act of 1899; Water Pollution Control Act as amended 1972; 33 CFR 209.120

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[2] Source: Northwest Federal Regional Council, *Permit Issuance Study, Vol. 2, Regulatory Requirements Impacting an Interstate Crude Oil Pipeline System*, March 5, 1977.

	Federal Action Agency	**Activity Requiring Approval**	**Form of Approval**	**Authority**
9.	Environmental Protection Agency			
	NPDES (Discharge Permits)	Wastewater discharges	Permit	Water Pollution Control Act as amended 1972 33 CFR 209.120 40 CFR 124-125
	PSD (Prevention of Significant Deterioration)	Air Emissions from certain facilities	Approval to construct or modify	40 CFR 52
10.	Federal Aviation Administration (Dept. of Transportation)	Construction of obstruction more than 200 feet high, construction of obstructions near airports, construction of any kind near or on airport	Applicant to serve notice subject to disapproval	Federal Aviation Regulation Part 77
11.	Coast Guard (Dept. of Transportation)	Construction of bridges over navigable waters	Permit	General Bridge Act of 1946 as amended 60 Stat. 847; 33 USC 525 et seq.
12.	Federal Communications Commission Safety & Special Radio Services Bureau	Operation of microwave transmission towers	Notification of Operation	Communications and Satellite Act, 1962; 76 Stat. 419; USC 701, 744
13.	Interstate Commerce Commission	Operation of pipeline as a common carrier	Approval for tariff, rate of depreciation, and fair value rate base	49 CFR Subtitle B, 1000-1399
		Radio Communications Equipment operation	License	47 CFR Chapter 1

B. State Permit/Approval Requirements

	State Action Agency	**Activity Requiring Approval**	**Form of Approval**	**Authority**
STATE OF WASHINGTON:				
1.	Energy Facility Site Evaluation Council	Design, siting, right-of-way, construction, operation of energy facilities, and Environmental Impact Statement	Site Certification Agreement	RCW Chapter 80.50; State Environmental Policy Act; WAC 463-46
		Waste water discharge	National Pollution Discharge Elimination Permit (NPDES)	Water Pollution Control Act as amended of 1972; 40 CFR 124-125
		Air discharge from plant	Permit	

review the work program and analyses of the team during preparation of the EIS to ensure that the data collected is adequate for decision-making purposes.

Each of the federal agencies involved has its own procedures for granting permits and/or reviewing the application.

Chronology of the Application/Approval Process

July 6, 1976:	Company filed site certification application for the Northern Tier Pipeline with EFSEC. Accompanying it was a payment to finance an independent consultant's study of the application's adequacy. Information required in a site certification application includes a description of the proposed facility, size and construction schedule, criteria used to determine the transmission route, descriptions of all spillage prevention and control measures, environmental safeguards and other details.
July 8, 1976:	Clallam County adopted ordinance #70 prohibiting the location of an oilport and related facilities in the county.
July 8, 1976:	EFSEC convened a special meeting and granted a waiver of the 90-day notice requirement required by WAC 463.08.023.[3]
July 26, 1976:	EFSEC subcommittee reported to full council meeting that the application was deficient and incomplete, recommending that the application be returned to Northern Tier for later resubmission. The full council agreed to the recommendation.
July 27, 1976:	Governor Daniel J. Evans met with the agency directors comprising EFSEC, requesting them to accept the Northern Tier Pipeline Company application.

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[3] Note: WAC 463.08.023 has been repealed.

July 28, 1976: EFSEC reconsidered the application and reversed its earlier position. Approval was conditioned upon the submittal of additional information.

August 18, 1976: Northern Tier submitted a site application supplement in response to specific issues raised by the council.

August 1976: Attorney General interpreted RCW 80.50.120 as allowing an application which does not comply with local zoning to proceed to certification.

September 2 through October 21, 1976: EFSEC held public hearings in Port Angeles and along the pipeline route to determine if the proposed site was consistent with local zoning and land use plans. One part of the project, the tank farm, was found to be in conflict with local land use and zoning ordinances in Clallam County.

November 19, 1976: Company submitted an application amendment to EFSEC, entitled Site Evaluation Supplement No. 2.

February 28, 1977: Although finding portions of the pipeline company application to be inconsistent with Clallam County land use plans, EFSEC voted to continue with application processing.

April 15, 1977: Company submitted an application for permission to cross federal lands.

Bureau of Land Management (BLM) was assumed the lead agency role to prepare a single environmental impact statement, pursuant to the National Environmental Policy Act (NEPA). BLM's Northern Tier Pipeline study team in Portland, Oregon has the responsibility to prepare a coordinated EIS.

In addition to permission for access, the Northern Tier proposal requires approval of an array of federal agencies including the Army Corps of Engineers, Bonneville Power Administration, Forest Service, Bureau of Indian Affairs, and the Environmental Protection Agency. (See previous discussion of Issues and Actors). Because of this, interagency coordination is expected to be an integral part of the BLM process.

April 15, 1977: continued	To date, the company has not applied to other federal agencies which have permit authority.
June 1977:	Consultant retained by EFSEC to evaluate the site certification application found it "seriously deficient" in meeting the intent of EFSEC's guidelines.
June 27, 1977:	Company was granted extension of six months to complete the application by EFSEC.
August 5, 1977:	Clallam County filed suit in federal court seeking invalidation of the WCZMP. The suit alleges that former Governor Dan Evans' policy statement restricting crude oil transshipment facilities at or west of Port Angeles was included in the WCZMP and was adopted without required public hearings or an environmental impact statement.
December 27, 1977:	EFSEC granted the applicant a 12 month extension to submit a complete application.

The progress of the application is depicted in figure 2.

Analysis

The following are some of the most significant problem areas confronting the Northern Tier Pipeline proposal.

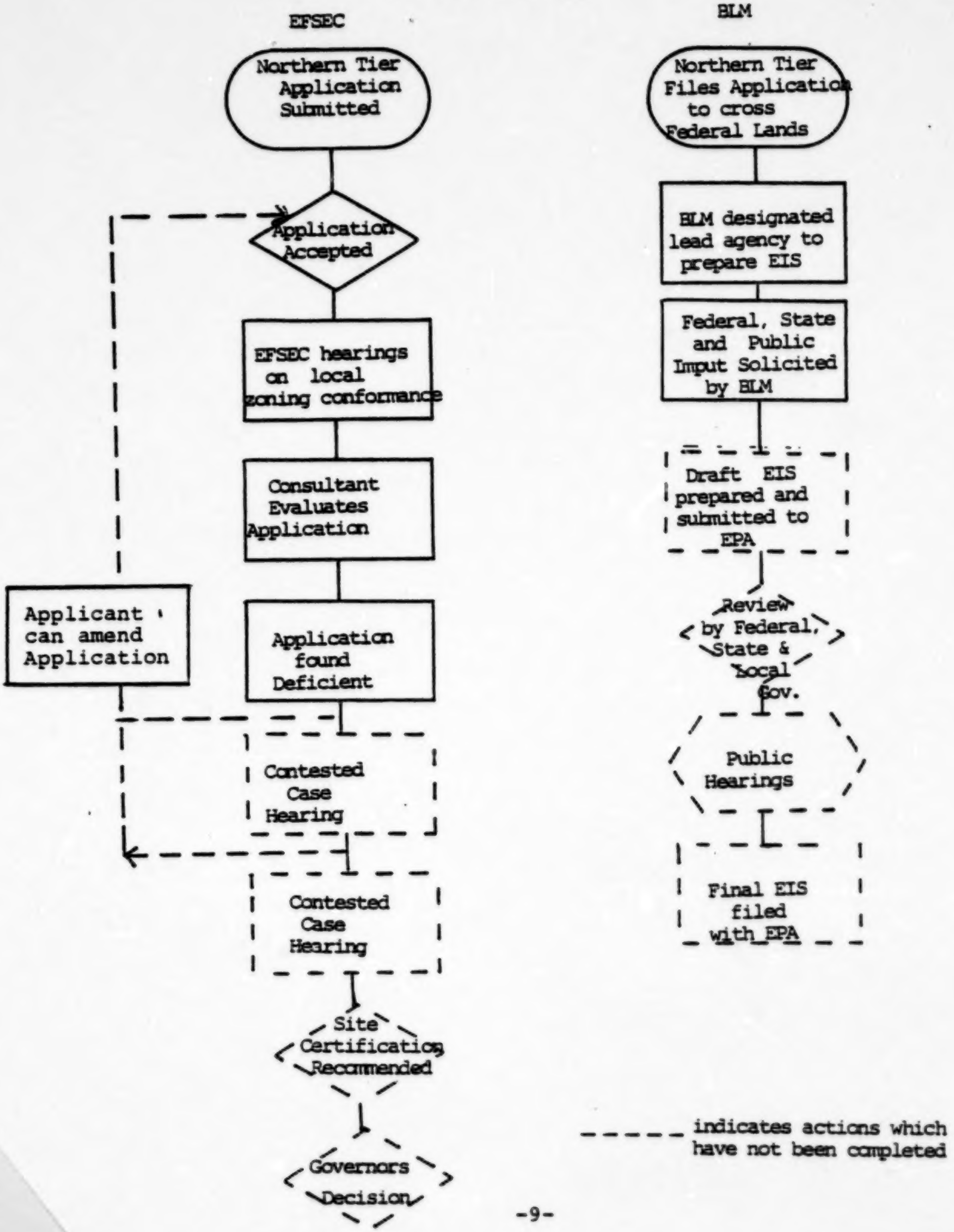
Controversy Surrounds Application Acceptance Date.

As noted in the chronology, the Northern Tier application was first filed on July 6, 1976. Accompanying the application was a request that EFSEC waive a 90 day notice requirement, which it was permitted to do under its rules. On July 8, 1976 EFSEC waived the notice requirement. That same day, Clallam County adopted an ordinance effectively banning the siting of an oil port and related facilities within the county.

The county was doubtless trying to prevent the project by creating a situation in which it would not be "...consistent and in compliance with county or regional land use plans or zoning ordinances" as provided in RCW 80.50.090(2). However, this section of the EFSEC laws and rules only specifies that the council must determine whether or not the proposed site is consistent and in compliance. It does not prescribe what the council must do if an application is found not to be consistent. Furthermore, the Attorney General has issued an opinion saying EFSEC can override local plans and zoning and that an application can proceed to certification even if found inconsistent with local zoning.

Figure 2:

Northern Tier Pipeline EFSEC & BLM APPLICATION
Flow Chart of Progress to Date


EFSEC
BLM
Northern Tier Application Submitted
Application Accepted
EFSEC hearings on local zoning conformance
Consultant Evaluates Application
Application found Deficient
Applicant can amend Application
Contested Case Hearing
Contested Case Hearing
Site Certification Recommended
Governors Decision
Northern Tier Files Application to cross Federal Lands
BLM designated lead agency to prepare EIS
Federal, State and Public Input Solicited by BLM
Draft EIS prepared and submitted to EPA
Review by Federal, State & Local Gov.
Public Hearings
Final EIS filed with EPA
----- indicates actions which have not been completed

RCW 80.50.090(2) does provide that:

> "If it is determined that the proposed site does conform with existing land use plans or zoning ordinances in effect at the date of application (emphasis added), the county or regional authority shall not thereafter change such land use plans or zoning ordinances so as to affect the proposed site."

The Northern Tier application was first denied by EFSEC on the ground that it was insufficient. Then in response to intervention by then Governor Dan Evans, it was approved. This turnabout reflects the complex interplay between levels of government. A state level council was required by a state statute to consider and perhaps yield to a local land use restriction. In response to the application, the local government adopted such a restriction. An issue arose regarding whether the Clallam County restriction was in effect on the date of the application.

This issue might have been moot had EFSEC held to its original position that the application was deficient since a new one would have to be filed after the restriction was clearly effective. But state executive authority intervened to keep the application pending.

Clallam County has brought suit for judicial review of EFSEC's action. Among the issues litigated will be whether the requirement of consistency with local land use is mandatory or merely a consideration. The court will also have to determine whether the Clallam County action was in time to be considered. The case is still pending.

Air Quality Impacts Important

Air quality is a major obstacle to approval of this project. Downtown Port Angeles is classified as a non attainment area for particulates in the state implementation plan. The Olympic National Park must be designated a mandatory class I area for particulates under the recently passed Clean Air Act amendments (PL95-190) so that any new facility would have to be examined for its impact on the national park. The proposed berthing facility is approximately seven miles from its edge.

Potentially, the marine terminal and transfer facility can emit more than 250 tons of air pollutants per year. Accordingly, an EPA prevention of significant deterioration (PSD) permit for particulates and sulfur dioxide emissions is required as well as agreement that the new facility is designed to include best acceptable pollution control technology.

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*This was an unofficial intervention and is not provided for by the EFSEC process.

The applicant must submit detailed information on emissions to EPS and to EFSEC as the impact of the facility on air quality also will be considered in the EFSEC site certification process. Northern Tier consultants currently are assessing the magnitude of the problem; the company has not yet submitted any data to EPA nor applied for a PSD permit.

Since the commerce of Port Angeles depends on timber, fisheries and tourism, there is considerable local concern that the proposed marine transshipment facility could destroy the local economic base. The proximity of the proposed tank farm to a residential area of the city is another problem.

On February 23, 1978, EPA identified Port Angeles as an area which fails to meet air quality standards, indicating that the state must develop new or improved strategies.

Challenges and Proposed Changes to the Washington Coastal Zone Management Program

A controversial element in the Washington Coastal Zone Management Program (WCZMP) is the policy of former Governor Dan Evans restricting major crude petroleum receiving and transfer facilities at or west of Port Angeles. This supplemented and amended the 1976 WCZMP. Clallam County, geographically located "...at or west of Port Angeles" is seeking invalidation of the WCZMP for two reasons: first, that the management plan was adopted without public hearings; and, secondly, that an adequate environmental impact statement pursuant to state or federal law was not prepared for a transshipment port at Port Angeles.
This county suit was filed in the U.S. District Court on August 5, 1977 and is still pending.

Following the election of Dixy Lee Ray as Governor in November 1976 the Department of Ecology (DOE) submitted an amendment to the U.S. Secretary of Commerce to delete the Evans' "at or west of Port Angeles" oil terminal policy. The Department of National Oceanic and Atmospheric Administration (NOAA), which administers the coastal zone management program, responded with a requirement that several procedural steps must be followed pursuant to deleting the Evans' language from the WCZMP. Environmental data on the program amendment was gathered and public hearings held in October 1977.

Enactment of the Marine Mammals Protection Act amendments of 1977 (PL95-136) on October 18, 1977 complicated the state action. This law contains a rider by Senator Magnuson prohibiting the federal government from approving any permit increasing the transport of crude oil in the navigable waters of Puget Sound east of Port Angeles.

On December 19, 1977, Governor Ray wrote to NOAA and indicated that passage of the Marine Mammals Protection Act amendments had the effect of placing the state in the position of advocating a particular site "at or west of Port Angeles." This was found to be contrary to the opinion gathered in public testimony and the intent of the Energy Facility Site Evaluation Council. Governor Ray submitted the transcript of the October public hearings and the environmental assessment on the proposed program amendment with this letter.

NOAA will now have to determine whether an environmental impact statement is required on the proposed amendment. This determination has not been made.

If the Governor is successful in deleting the Evans policy statement, the Clallam County case would be moot. Yet PL 95-136 would still nullify the location of any port for the transshipment of oil east of Port Angeles.

National Interest Considerations

Section 306 (c) 8 of the CZM act requires a state to consider the national interest in the siting of energy facilities which are of greater than local concern. EFSEC is considered to be the vehicle through which the State of Washington can legally enforce this commitment to national interest considerations. Since the Northern Tier Pipeline would serve out of state refineries, national interest considerations are a significant factor.

Several bills intended to expedite the transport of Alaskan crude oil to northern tier refineries were introduced in Congress. For instance, S. 1868, introduced by Senator Melcher of Montana on July 15, 1977, required a decision by the Secretary of the Interior on the Northern Tier Pipeline proposal no later than February 1, 1978. The Energy and Natural Resources Conference committee significantly amended the Melcher bill to expedite the environmental impact statement and decision making process for any applicant for developing a west to east pipeline system. The National Energy Act (S. 1469 and HR 8444) still pending in conference committee provides that the final EIS is to be submitted to EPA by December 1, 1978, with the President to make a decision within 45 days.

Many of the federal, state and local officials interviewed believe that the Northern Tier Pipeline Company has been less than responsive to state regulatory requirements because of expediting language in the National Energy Act. However, the act does not preempt any state law. The company appears to have focused much attention on determining the political feasibility of the project at the state and federal level rather than proceeding with the administrative process.

Additionally, because of congressional interest[4] the Department of the Interior agreed to complete a final environmental impact statement on this case in less than one year. Many of those interviewed question whether an impact statement prepared in such a short length of time can be adequate. Since the applicant has initiated contact with only one of the federal agencies involved in the project, there is some confusion concerning whether the EIS will meet the needs of other federal agencies. An inadequate or hastily prepared EIS may be subject to extensive litigation.

Lack of Contact with Local Government

Although EFSEC is intended to provide "one stop shopping" at the state level, bypassing local government can lead to opposition and hostility. A cooperative partnership between local government and the applicant which keeps everyone informed can expedite the approval process without developing potential road blocks.

Northern Tier has appeared to have expended little effort to seek local support. For example, Clallam County was not notified of the project in advance. The socio-economic concerns that were raised at the local level after the application was filed with EFSEC have not been addressed. The local impacts of the project are still not understood.

Officials of Clallam County and Port Angeles have complained that they do not have the time, money nor staff to fully participate in the application process. Unlike the BLM EIS study or, to some extent the EFSEC procedure, local expenses are not reimbursed by the applicant. They say that trips to Olympia and Portland are time consuming, costly and frustrating.

Additionally, Clallam County has not applied for a coastal energy impact program grant to assist it in planning for the effects of the energy facility, because such an application would imply agreement with the Washington Coastal Zone Management program. (See previous discussion--"Challenges to the Washington Coastal Zone Management Plan.")

Applicant Experiences Difficulties

EFSEC regulations, as initially conceived, were written for single site specific facilities and complications arise from a pipeline project which is continuous. The applicant has complained that providing detailed biological inventories for each segment of the pipeline is unreasonable, especially since the exact location of the pipeline is subject to change. However, EFSEC regulations require descriptions of the biological systems that might reasonably be affected (WAC 463-42-550).

Additionally, the applicant has stated the site certification application and the state environmental policy act (SEPA) requirements to be conflicting at times. Although the SEPA regulations have been incorporated as a part of the EFSEC rules, the two application requirements are not the same, forcing the applicant to compare the two sets of requirements to determine which is the more stringent and then take steps to insure compliance with it. EFSEC does not agree that a conflict exists since EFSEC rules require the council to comply with SEPA and thus it can request information appropriate for an EIS in addition to the site certification requirements. However, these processes are not exclusive of one another and some potential conflict may exist. Therefore, determination needs to be made if EFSEC site certification standards and the SEPA requirements could be clarified or combined to minimize potential conflicts.

Despite the fact the EFSEC process provides a procedure ensuring objective and factual decision making, the governor is not bound by the administrative process. The governor's decision can be appealed, however.

The applicant also feels that concurrent federal and state environmental policy act requirements, both financed by the applicant, provides little opportunity for an integrated process. The BLM northern tier pipeline study team and the applicant's consultants for the SEPA requirements have apparently agreed to cooperate and exchange information.

EFSEC could simply accept the federal EIS as satisfying its requirements or it could supplement the federal EIS. However, because of the expedited federal process,EFSEC is concerned that the EIS will not adequately address SEPA concerns.

Finally, the applicant's project is multistate and "in the national interest." Initiating substantial local contact in each county and city along the pipeline route would be time consuming and costly for such a large proposal. Since EFSEC's procedures are designed to balance energy and environmental needs, the applicant determined that the majority of its efforts should be invested with the state procedure.

Contacts with local governments along the pipeline route may be initiated by the company during the preparation of the EFSEC required application.

Next Steps

EFSEC anticipates the receipt of a complete site certification application from the Northern Tier Pipeline Company in June 1978. BLM's draft environmental impact statement is scheduled for release in July 1978 with the final EIS delivered to EPA by December 28, 1978.

EPA Case Study No. 6
May 24, 1978- Rev. 8/1/78
By Glen Odell
Seton, Johnson & Odell, Inc.

LIQUIFIED NATURAL GAS PEAKING PLANT
NEWPORT, OREGON

Description of Proposed Project

In July, 1977, Northwest Natural Gas (NNG) began operating a liquified natural gas (LNG) liquification, storage and evaporation facility at a site on Yaquina Bay in Newport, Oregon. For the first two years, the project was planned as a marine terminal. NNG contracted with Phillips Petroleum Company and Marathon Oil Company for delivery of 11 to 13 billion cubic feet of gas per year in a 29 million cubic foot LNG tanker (approximately 600 feet long with a 95 foot beam). A total of 18 to 20 shiploads per year were to be delivered from the excess capacity of the existing Phillips-Marathon LNG plant at Kenai, Alaska. In 1975, however, the Federal Power Commission elected to assume regulatory jurisdiction over the Alaskan production, shipping and receiving facilities if the project proceeded, and Phillips-Marathon withdrew from the contract under an option providing for such a contingency. Facing a need for gas, and already owning the site, Northwest Natural Gas elected to drop the marine facilities and add a liquification unit.

In its present configuration, the plant receives natural gas from the NNG system during off-peak months, liquifies it with refrigeration furnished by a gas turbine powered compressor, and stores it in a 300,000 barrel double-shell tank. Gradually filled during the warmer months, the tank is subsequently drawn down during winter peak demand periods as the gas is re-vaporized and returned to the NNG pipeline network.

Principal Issues and Actors

Review of the NNG project involved a number of local, state and federal agencies covering a broad range of issues, but generally proceeded without a great deal of controversy. The one major issue which ultimately determined the design of the system was whether FPC had jurisdiction over the LNG shipment by Phillips-Marathon.

Otherwise, NNG dealt with each public agency in a straightforward fashion, generally preceeding formal permit applications with informal meetings to explain the project, identify agency concerns and clarify requirements. Table 1 summarizes the roles and positions of the major parties to the review process.

TABLE 1
MAJOR ISSUES AND ACTORS

Issue	Agency	Role/Position
1. Tanker Safety	Federal Power Commission	Assumed jurisdiction over interstate LNG movement, including operation of shipping and receiving terminals; this caused Phillips-Marathon to withdraw from supply contract.
	Coast Guard	Must approve vessel, license crew members, as well as waterfront facilities and LNG handling procedures.
2. Dredging and dock construction	Corps of Engineers	Issued permits for test borings, channel dredging, and construction of wharf, pipeline and other dockside utilities.
	EPA	Commented on proposed Corps permit.
	County	Approved dredge plan and dock.
	Fish&Wildlife	Commented on proposed Corps permit.
	DEQ	Through Governor, commented and approved Corps permit.
	Div.of State Lands	Issued dredging permit
3. Siting of facility; general LNG safety considerations	Yaquina Bay Task Force	Considered and recommended approval of project.
	County	Issued conditional use permit for dredging, dock, tank and liquification unit.
	People Concerned About LNG, Inc.	Formed in 1977 and attempted to block initial operation of liquification plant and filling of tank.
4. Air quality and noise	DEQ	Issued air emission discharge permit including noise limitations; amended permit to provide for turbine powered compressors for liquification unit.

Significant citizen opposition to the project did not emerge until construction was completed and the plant was ready to begin operation, and therefore had no significant effect on the planning or permitting process or on startup of the facility.

Project Chronology

The following chronology omits a number of informal meetings between NNG staff and various agencies:

August 30, 1973:	First meeting between NNG, Phillips and Marathon to discuss importation of LNG to Newport.
October 1, 1973:	NNG met with state and local fire marshals.
October 18, 1973:	NNG executives met with Governor.
October 26, 1973:	NNG briefed DEQ director on potential project.
	NNG applied to Division of State Lands for dredge permit.
	NNG applied to Corps of Engineers for permits for dredging, dock and fire water pump facility.
October 29, 1973:	NNG briefed other state agency personnel.
November 6, 1973:	NNG met with Yaquina Bay Task Force (YBTF).
November 19, 1973:	NNG submitted conditional use permit application to Lincoln County Planning Commission (PC).
November 21, 1973:	NNG applied to Corps of Engineers for test borings permit.
November 28, 1973:	PC held public hearing on conditional use permit.
November 29, 1973:	Corps approved test borings.
December 5, 1973:	NNG presented to YBTF informal environmental impact assessment structured around questions asked at the November 6 YBTF meeting; copies also provided to PC and other agencies.

December 10, 1973:	PC approved conditional use permit for dock and tank.
December 17, 1973:	YBTF unanimously approved the project.
December 21, 1973:	NNG requested proposals from LNG plant contractors.
January 10, 1974:	NNG signed supply contract with Phillips-Marathon.
January 17, 1974:	Corps issued public notice of proposed permit.
January 18, 1974:	NNG retained consulting engineer for site and dock design.
January 25, 1974:	EPA review of Corps permit noted its concerns.
February 1, 1974:	NNG had initial meeting with Coast Guard.
February 12, 1974:	EPA letter withdrew objections to Corps permit.
February 14, 1974:	NNG held informational seminars on LNG for Coast Guard personnel.
February 19, 1974:	U.S.D.O.I./Fish & Wildlife Service review completed; signed off on Corps permit.
February 27, 1974:	Lincoln County granted preliminary approval of dredge plan.
March 9, 1974:	NNG accompanied Coast Guard personnel on inspection tour of LNG operations in Kenai, Alaska.
March 13, 1974:	Division of State Lands issued permit for dredging.
March 15, 1974:	Governor recommended approval of Corps permit transmitting DEQ certification that water quality standards would not be violated.
March 28, 1974:	Corps of Engineers issued permit for dredging and dock construction with expiration date of March 31, 1974.
April 5, 1974:	NNG staff prepared report entitled: "Siting Consequences of the Newport LNG Receiving Terminal", providing most of the subject matter appropriate to an environmental impact statement.

April 16, 1974: County issued conditional use approval of dredge plan.

April 23, 1974: NNG provided project details to DEQ.

April 29, 1974: Filed application for DEQ air contaminant discharge permit (ACDP).

May 1, 1974: DEQ held joint public hearing with Public Utilities Commissioner on ACDP.

May 17, 1974: NNG placed further engineering and site development work on hold due to procedural delays by FPC on jurisdictional matters.

July 15, 1974: DEQ issued APCD for receiving facilities, vaporizers, back-up power generator turbine.

September 8, 1974: FPC hearing on jurisdictional issue.

January 15, 1975: FPC Administrative law judge issued decision stating that FPC had no jurisdiction over Kenai production facility or LNG transport system of Phillips-Marathon-NNG.

June 19, 1975: NNG reactivated design of project as peaking plant with liquification unit.

June 23, 1975: FPC issued opinion and order reversing January 15 decision of administrative law judge and assuming jurisdiction over Kenai production facility or LNG transport system of Phillips-Marathon-NNG.

July 7, 1975: NNG began site preparation for peaking plant.

July 28, 1975: At request of Lincoln County Planning Commission, NNG presented details on plans for liquification unit and peaking plant.

August 19, 1975: FPC refused to reconsider its action of June 23.

September 3, 1975: NNG applied for amendment to conditional use permit to provide for liquification unit.

September 22, 1975: Planning Commission issued conditional use permit for peaking plant.

October 1, 1975: Bid awarded for construction of tank foundation.

October 6, 1975:	NNG agreed to withdrawal from LNG contract by Phillips-Marathon.
November 11, 1975:	Seeking to keep its options open, NNG applied to Corps of Engineers for amended dock permit providing for additional time to get under construction.
	Corps issued public notice of revised dock permit.
December 23, 1975:	Lincoln County informed Corps by letter that no further local approvals were needed for dock permit.
January 19, 1976:	Tank construction started.
January 23, 1976:	EPA notified Corps that it had no objection to revised dock permit.
April 6, 1976:	Corps issued revised permit for wharf, dolphins, walkways and piping for marine terminal. Construction required to begin before April 30, 1977 and completed by April 30, 1979.
May 1977:	"People Concerned About LNG, Inc." formed in Newport and attempted by political and legal means to prevent operation of the LNG plant.
August 1, 1977	Lincoln County Planning Commission commenced revision of Comprehensive Plan to bring it into compliance with LCDC's Goals and Guidelines by July 1, 1980.
August 2, 1977:	Federal Judge Burns denied motion of "People Concerned About LNG, Inc." for a temporary or permanent injunction against use of the LNG facility.

Analysis

The single most noteworthy aspect of the review process concerning this project is the lack of controversy and relative ease with which the applicant proceeded through the various agency requirements. This feature provides a convenient focus for analysis.

Previous Local Planning Beneficial to Applicant

The Yaquina Bay area is the site of one of Oregon's first estuary planning programs. A planning process initiated by the Yaquina Bay Regional Planning Commission and continued by the Yaquina Bay Task Force produced a land use plan in 1969 and a marine development plan in 1972. Most of the elements of these citizen-developed plans were adopted in the form of zoning ordinances by the City of Newport and Lincoln County. Both the plan and implementing ordinances are undergoing revision to bring them into compliance with LCDC Goals by July 1, 1980.

When Northwest Natural Gas Company entered the scene in late 1973, it found a suitable LNG facility site near Newport already zoned marine-industrial as part of a well-accepted plan. With the development initially including a marine receiving terminal, and the potential of establishing satellite industries based on availability of the cold energy of the LNG, the company had little difficulty demonstrating the compatibility of the project with the marine-industrial objective inherent in the zoning classification.

Pre-Application Conferences

Between October 1 and November 6, 1973, representatives of Northwest Natural Gas Company met with state and local fire marshalls, Governor McCall, the Director of the Department of Environmental Quality, various state agency staff, and the Yaquina Bay Task Force. In the course of these meetings, NNG described the project, identified the concerns and requirements of each agency, and apparently mapped its program of permit applications. For example, the most comprehensive environmental assessment prior to most project approvals was developed around questions raised at the November 6 meeting with the Yaquina Bay Task Force.

Local Approval Expedited

The Lincoln County Planning Commission approved conditional use permits for the LNG dock and tank on December 10, 1973, just 21 days after receiving the application from NNG. Several aspects of the local review process appear unusual from a 1978 perspective. For example, the public hearing of the Planning Commission was held only nine days after the application was filed, and a week prior to issuance by NNG of its environmental assessment. Permit approval by the Commission came one week before endorsement by the advisory group, the Yaquina Bay Task Force -- a reversal of the more usual order.

It must be presumed that the advanced planning effort, the early contact by the applicant, and the "logic" of the proposal combined to provide a basis for local planning officials to move so rapidly on the project. Essential to their ability to do so is that Oregon, unlike California and Washington, has no legislation requiring preparation of an environmental impact statement by local government prior to issuing major development permits.

It is interesting to note that the county was somewhat more deliberative in approving NNG's dredge plan, not issuing final approval until April 16, 1974 after the Corps of Engineers had issued its own permit for dredging and dock construction. Amendment of the conditional use permit to provide for a peaking plant with no marine terminal, however, was accomplished within three weeks of NNG's application in September, 1975.

Environmental Review Informal and Uncoordinated

In the absence of a state-mandated environmental assessment, and given the Corps of Engineer's determination that issuing the dredge and dock permit was not a major federal action, no comprehensive environmental assessment was required for the Newport LNG facility. The applicant prepared two such documents, however: one on December 5, 1973 in response to concerns of the Yaquina Bay Task Force, and an updated report on April 5, 1974 as a general information report issued shortly before county approval of the dredging plan. In doing so, NNG was going beyond the requirements of agencies to provide information of interest to decision makers.

Even in the absence of a required impact statement, the Corps of Engineers review of NNG's application for a dredging and dock construction permit provided a somewhat organized means of multi-agency review. Among the many agencies to whom the Corps circulated information, concerns and comments were received from the EPA, the Fish and Wildlife Service, and the Governor, speaking on behalf of DEQ and other state agencies.

Development Predated Major Regulatory Legislation

Undoubtedly one of the most important factors contributing to the relative ease with which NNG secured approval of the project was that the review process occurred prior to enactment of such important recent legislation as:

- Senate Bill 100, passed in 1973, establishing LCDC and providing the basis for the Oregon Coastal Management Program

. Energy Facility Siting Act, 1975.

Perhaps equally important, the Newport process was completed before the development of LNG facility siting controversies in California and elsewhere led to widespread study of and attention to safety and other concerns.

Consideration of these recent developments is important from the standpoint of identifying how the 1973-74 process would be today, but also as a guide to problems NNG may face if it decides at some future date to add the dock and marine receiving facilities for LNG importation by tanker.

The impact of LCDC's goals and guidelines on LNG siting is in two principal areas. First, a formal showing of consistency with LCDC goals and with local plans acknowledged by LCDC, is required. Applied to the LNG plant, local zoning of the site implies that the development should be marine and industrial in nature. Clearly, the facility as it presently exists is not marine and has relatively small industrial effect. Adding the receiving facilities would provide the marine development as well as an opportunity for industrial development based upon the cryogenic potential of the LNG, and probably enhance the demonstration of land use compatibility.

The second feature of LCDC's mandate is less clear in its impact on the facility. Under 1976 amendments to the federal Coastal Zone Management Act, LCDC, as the state's coastal agency, must provide an energy facility planning process within the Oregon Coastal Management Plan by October 1, 1978. The nature of this process will significantly affect the review of future LNG facility proposals.

If applicable, the Energy Facility Siting Act would be a major change in the review process for an LNG plant. The required site certificate of the Energy Facility Siting Council (EFSC) would require input from a variety of state and local agencies, take up to 12 months for processing, and once signed by the Governor, would bind all state agencies to issue essential permits in accordance with conditions of the certificate.

It appears, however, that EFSC would have no jurisdiction over an LNG project such as the Newport project, as the Act's definition of "energy facility" does not include LNG storage tanks, marine terminals or liquification plants. The closest the definition comes to including present or planned facilities is the pipelines; however, both types of pipelines (greater than 6 inches for liquids including LNG, or 16 inches for gases) must be five miles or more in length in order to come under EFSC jurisdiction. The LNG receiving line from dock to tank would only be a few hundred yards long, whereas the new 4.6 mile gas line from the tank to the main running from nearby Toledo to the Willamette Valley was 16 inches in diameter but less than 5 miles long. Thus neither the original construction nor possible future addition of a dock at Newport would require an EFSC site certificate.

The impacts of LNG siting controvery in California and elsewhere on future LNG processes in Oregon is somewhat speculative. One which seems certain, however, is that with the appearance in Newport of a citizens group, People Concerned About LNG, Inc., opposed to the development, it seems unlikely that the Corps of Engineers would find that issuance of a permit for an LNG dock today does not constitute a major federal action. With the recently developed body of literature on LNG safety, and the decision of the State of California to site an LNG facility only in remote areas of its coast, it is difficult to conceive of the Corps failing to require an environmental impact statement for the project; it appears clear that the scope of the EIS would include full treatment of navigation and safety issues, as well as the direct impact of dredging and dock construction in Yaquina Bay.